

CITY OF PACIFICA
AMERICANS WITH DISABILITIES ACT
POLICY AND PROCEDURE
MANUAL

PREPARED BY THE
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

1995

AMERICANS WITH DISABILITIES ACT

POLICY AND PROCEDURE MANUAL

INTRODUCTION

The City of Pacifica, in compliance with the Americans With Disabilities Act (ADA) has adopted policies related to access to employment and public services for the disabled community. Administrative Policy Number 55 was approved by the City Council and forms the basis of the City's policy on compliance with ADA requirements. The purpose of this policy and procedure manual is to provide a reference document for use by City staff and the public on the various requirements of ADA and related City policies.

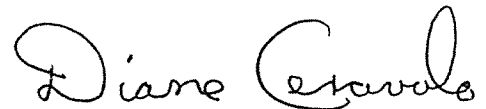
State and Federal regulations have been established for accessibility requirements in employment and public services as well as in commercial establishments. While details of the requirements have changed over the years, the basic design parameters are well established. This document has compiled technical standards for accessibility from a number of sources. Details for construction and retrofit of buildings and landscapes have been presented in the Technical Standards for ready reference. This manual is not intended to provide the ultimate source for final determination of detailed standards, but rather it will provide a guide to the standards for most review and design purposes. The reader is referred to Title 24, Parts 2, 3 and 5 of the State Building Code, prepared by the Office of the State Architect and Department of Rehabilitation, to the Uniform Federal Transportation Barriers Compliance Board, to the Uniform Building Code and to local codes and requirements. It is because of the complex nature of the requirements of these various codes that this policy and procedure manual was created. It is intended to be used as a guide for routine operations.

We would like to thank Elaine Forbes, Administrative Intern from Mills College and Consuelo Mendoza, Engineering Intern, for their researching, compiling and presenting the information for this manual as well as their contributions and field work for the Self Evaluation and Transition Plan.

Respectfully submitted,



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ADMINISTRATIVE POLICY

CITY OF PACIFICA

No.

55

Administrative Policy

Date issued: Sept. 12, 1994

Subject:

Americans with Disabilities Self-evaluation and Transition Policy

Purpose:

The purpose of this policy is to comply and conform with the Americans with Disabilities Act (ADA), which was signed into law on July 26, 1990. This legislation signifies the nation's commitment to full and equal opportunity for all citizens, and is the first comprehensive civil rights law for individuals with disabilities. This policy and self-evaluation plan express the City of Pacifica's commitment to provide equal access for all citizens, within the financial means of the City.

Policy:

It is the policy of the City of Pacifica that all citizens and visitors to the City of Pacifica have equal access to employment and services and that any physical barriers are removed in existing public accommodations, where removal is readily achievable.

Goals and Objectives:

The process of self-evaluation is ongoing and will be undertaken at the end of each fiscal year. The purpose of this process is to identify barriers that may limit accessibility by the disabled in City employment, programs, and services, and to suggest potential compliance solutions. The purpose of the Transition Plan is to move the City into compliance based on community priorities, available funds, and legal restrictions.

The long-term goal of the City of Pacifica's Self-evaluation and Transition Plan is to achieve and maintain employment, programs and services that are in their entirety accessible to the disabled.

TITLE I - EMPLOYMENT

1) Title I of the ADA prohibits discrimination in employment against a qualified individual with a disability with respect to hiring and in the terms and conditions of employment.

TITLE II - PUBLIC SERVICES

2) Title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in programs, activities and services provided or operated by all state or local governments. Title II mandates that a public entity must evaluate its current services, policies and practices to determine whether they are in compliance with the nondiscriminatory regulations of the ADA. A self-evaluation is required to examine programs, activities and services, identify problems or physical barriers that may limit accessibility by the disabled and describe potential compliance solutions. The Agency must then proceed to make the necessary changes resulting from its self-evaluation. The ADA further requires that all feasible structural or physical changes to make programs accessible must be completed by January 26, 1995.

CITY OF PACIFICA

Administrative Policy

No.

55

Date issued: Sept. 12, 1994

Subject:

Americans with Disabilities Self-evaluation and Transition Policy

Administrative Procedure:

The overall responsibility for monitoring and administering the Self-evaluation and Transition Plan is with the City of Pacifica. If there are any questions or inquiries regarding this plan, contact the Personnel Department.

A. Designation of the Americans with Disabilities Compliance Officers

The Director of General Services will act as the Americans with Disabilities Compliance Officer. It will be this person's responsibility to coordinate the City's ADA efforts and to investigate complaints. Investigation responsibilities will be delegated to the Director of Community and Economic Development if the complaint concerns streets or curb cuts, and to the Superintendent of Public Works if the complaint concerns park access or building access, and to any other City Official as applicable.

B. Designation of the Americans with Disabilities Review Committee

The act requires that its self-evaluation plan be reviewed by the public in the form of a committee. It is the City Council's responsibility to solicit and appoint a review committee representing individual departments within the City and community interest groups representing both disabled and non-disabled individuals. The City staff will contact the Center for Independent Living to solicit applications from members of the Pacifica disabled community. The ADA Review Committee comprised of City staff, disabled and non-disabled individuals will act in an advisory role to the City Council in prioritizing improvement requests. The Committee will give input to Council as to what are the access needs of the community.

C. Public Hearing

A public hearing is required by the ADA so that concerns not addressed in the Self-evaluation Plan or by the Americans with Disabilities Review committee are addressed. Access improvements are not limited to the proposed changes identified in the Self-evaluation Plan. Any requests for additional ADA access improvements will be considered. Any individual or group who wish to review the Self-evaluation Plan will have the opportunity to do so before the public hearing. This plan will be available in the personnel office.

D. Allocation of Funds

The act requires that public agencies allocate funds that will be used specifically for upgrades that move the City to compliance with the ADA. Funds will be allocated yearly or as the Self-evaluation Plan is up-dated. Funds for improvement will

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Americans with Disabilities Self-evaluation and Transition Policy

generally be included in the Capital Improvement Plan. This may be done on a yearly basis or on a five-year plan.

E. Request/Complaint Procedure

The City of Pacifica established a complaint procedure which will be used to file Title I complaints. The City has also developed a complaint procedure for individuals wishing to file a Title II complaint. A complaint must be filed within 180 days of the date of the alleged act(s) of discrimination, unless the time for filing is extended by a federal agency for good cause.

Before filing a complaint, the City strongly urges a complainant to first work with the City staff to resolve the complaint. It is the policy of the City that all citizens have equal access to employment and services. The City will accommodate all reasonable requests.

Summary:

The Americans with Disabilities Act of 1990 mandates that local and state governments self-evaluate employment, services, and programs to identify barriers to the disabled and suggest potential compliance solutions. It is the responsibility of City administrators and in particular the City's compliance officer to ensure that the Self-evaluation Plan is complete and updated when necessary. The Self-evaluation Plan is submitted to City Council and retained for public comment.

The purpose of the Transition Plan is to move the City of Pacifica into compliance with the ADA based on community priorities and available funds. It is the City Council's responsibility to solicit and appoint a review committee representing individual departments within the City and community interest groups representing both disabled and non-disabled individuals. The ADA Review Committee will act in an advisory role to the City Council. The committee will assess community needs and prioritize improvement requests.

A public hearing is required so that concerns not addressed in the Self-evaluation Plan or by the Americans with Disabilities Review Committee are addressed. Access improvements are not limited to the proposed changes identified in the Transition Plan. Any requests for additional ADA access improvements will be considered. Any individual who wishes to review the Self-evaluation Plan will have the opportunity to do so before the public hearing.

The City Council will allocate funds generally from the Capital Improvement Funds that will be used specifically for upgrades that move the City into compliance with the Americans with Disabilities Act. Funds will be allocated yearly or as the Self-evaluation Plan is updated.

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Americans with Disabilities Self-evaluation and Transition Policy

The long-term goal of the City of Pacifica's Self-evaluation and Transition Plan is to achieve and maintain employment, programs, and services that are accessible to the disabled insofar as possible.

SELF EVALUATION

City of Pacifica

Americans with Disabilities Act

Self-Evaluation

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CITY OF PACIFICA

AMERICANS WITH DISABILITIES ACT SELF-EVALUATION

I. INTRODUCTION

The Americans with Disabilities Act (ADA) was made law on July 26, 1990. The ADA is the first comprehensive civil rights law for individuals with disabilities. This legislation signifies the nation's commitment to full and equal opportunity for all citizens. The City of Pacifica shares in this commitment. In order for the public, applicants and employees to benefit from the commitment to equal opportunity, integration of those with disabilities will be accomplished to the maximum extent feasible.

Two documents are required by the ADA which have been adopted by the Pacifica City Council:

1. City of Pacifica Self-Evaluation Plan
2. City of Pacifica ADA Transition Plan

Adoption of these plans will provide a framework for Pacifica's compliance to ADA requirements. The requirements of the Act became effective for State and local governments on July 26, 1992. Feasible changes must be completed by January 26, 1995.

The process of self-evaluation is intended to call the City to action to begin a transition plan that incrementally moves the City into compliance. The self-evaluation is to be distributed for public comment and then retained for a minimum of three years. Self-evaluation is an ongoing process and should be undertaken at the end of each fiscal year. It is further recommended that the City Council proceed with the selection of an ADA Review Committee and all other necessary steps required by the ADA for the City's Transition Plan.

II. DEFINITIONS OF TITLES OF THE ADA

TITLE I - EMPLOYMENT

Title I of the ADA prohibits discrimination in employment against a qualified individual with a disability with respect to hiring and in the terms and conditions of employment.

TITLE II - PUBLIC SERVICES

Title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in programs, activities and services provided or operated by all state or local governments. Title II mandates that a public entity must evaluate its current services, policies and practices to determine whether they are in compliance with the nondiscriminatory regulations of the ADA. A self-evaluation is required to examine programs, activities and services, identify problems or physical barriers that may limit accessibility by the disabled and describe potential compliance solutions. The Agency must then proceed to make the necessary changes resulting from its self-evaluation. The ADA further requires that any feasible structural or physical changes to make programs accessible must be completed by January 26, 1995.

TITLE III - PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Title III of the ADA covers private entities from discriminating against a qualified individual in providing public accommodations and services. Title III also requires that new commercial facilities and public accommodations are designed and constructed so that they are readily accessible to individuals with disabilities, unless it is structurally impractical to do so. Architectural barriers must be removed in existing public accommodations where removal is readily achievable.

TITLE IV - TELECOMMUNICATIONS

Title IV requires that common carriers of interstate wire or radio communications provide technological accommodations for individuals with hearing and speech impairment.

TITLE V - MISCELLANEOUS PROVISIONS

Title V contains various additional provisions of the ADA. The provisions include a prohibition from retaliation against, or coercing of, an individual who seeks to enforce another's or that person's own rights under ADA. Title V also amends sections of the Rehabilitation Act of 1973 to exclude current users of alcohol and drug abuse to be all-inclusive.

III. AMERICANS WITH DISABILITIES ACT TERMINOLOGY

A. GENERAL

DISABILITY - is a physical or mental impairment that substantially limits one or more of the major life activities of the individual; a record of such an impairment; or being regarded as having such an impairment; or being an associate of a person with a disability, including but not limited to epilepsy; AIDS; cancer; diabetes; narcolepsy; vision in one eye; impaired hearing; inability to handle stressful situations; schizophrenia; use of a wheelchair; dyslexia; drug addiction or abuse; and alcoholism.

CONDITIONS WHICH WOULD NOT BE COVERED BY THE ADA: including, but not limited to, left handedness; height and weight problems; poor judgment or a quick temper; poverty; lack of education; prison record; advanced age; sexual problems; compulsive gambling; kleptomania; or pyromania.

INTERNATIONAL SYMBOL OF ACCESSIBILITY: The symbol adopted by the Rehabilitation International 11th World Congress is internationally recognized as the symbol which signifies that a building or facility is accessible to persons with disabilities.

MAXIMUM EXTENT FEASIBLE: In a planned alteration, compliance with the ADA accessibility guideline standards shall be provided to the maximum physical accessibility that is possible when it is virtually impossible to fully comply due to the nature of an existing building or facility. If persons with certain disabilities cannot be accommodated, the facility shall accommodate persons with other disabilities that are feasible.

NEW CONSTRUCTION AND ALTERATIONS: Full accessibility to persons with disabilities is required for building permits issued after January 26, 1992, and for first occupancies which occur after January 26, 1993. Compliance is required on alterations after January 26, 1992, and the related path of travel if applicable. Alterations may include remodeling, renovations, rehabilitation, historic restoration, or structural element rearrangement. Normal maintenance is not considered alteration unless it affects the facility's use.

B. TITLE I - Employment

QUALIFIED INDIVIDUAL WITH A DISABILITY - an individual who can perform the essential job functions with or without accommodations. The concept behind this definition is that an employer may require that every employee be qualified to perform the essential job functions with or without accommodation, while ensuring that an employer's selection and job criteria do not unlawfully discriminate against persons with disabilities.

ESSENTIAL JOB FUNCTIONS: Three types of job functions that may be considered essential by the ADA are: 1) The reason the position exists is to perform the particular function; 2) There are a limited number of employees available among whom the job function can be performed; 3) The function is highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function. Another factor to consider is the number of other employees available to perform that job function. In analyzing various job functions based upon these factors, the determination of essential must be made on a case-by-case basis.

REASONABLE ACCOMMODATION - must be determined on a case-by-case basis but may include making existing facilities which are used by employees readily accessible to and usable by individuals with disabilities depending on the job description. Reasonable accommodations may also include modified work schedules, reassignment to vacant positions, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities.

C. Title II - Public Service

UNREASONABLE OR UNDUE HARDSHIP: When an enforcing agency determines that compliance with building standards for specific work would be infeasible by the evaluations of the following:

- . Overall construction cost
- . Cost of providing access
- . Nature of accessibility in gains and losses
- . Nature of use and availability to persons with disabilities
- . Accessibility improvement impact on the project's financial feasibility

IV. COMPLAINT PROCEDURE AND DELEGATION OF RESPONSIBILITY

The Director of General Services will act as the ADA compliance officer. It will be this person's responsibility to coordinate the City's ADA efforts and to investigate complaints. Investigation responsibility will be delegated to the Director of Community and Economic Development if the complaint concerns streets or curb cuts, and to the Superintendent of Public Works if the complaint concerns park access, or building access, and to any other City Official as applicable. Included in this plan is a complaint procedure for individuals who wish to file a Title II complaint (attachment A). The City currently has a harassment complaint procedure which has been modified to be used for Title I complaints (attachment B). A complaint must be filed within 180 days of the date of the alleged act(s) of discrimination, unless the time for filing is extended by a federal agency for good cause.

IV. REQUEST FORM

Before filing a complaint, the City strongly urges a complainant to first work with City staff to resolve the complaint via the request form (Attachment C). It is the policy of the City that all citizens and visitors to the City have equal access to employment and services. The City is committed to the principle of equal access and will make every attempt to accommodate a request if the request does not place an undo hardship on the City.

TITLE I REQUIREMENTS

The City of Pacifica has been and continues to be committed to the principles and practices of equal employment opportunity and equal access.

The City of Pacifica will administer all personnel practices such as: recruitment, selection, training, compensation, and all other terms and conditions of employment without regard to disability. In order for applicants and employees to benefit from the positive environment provided by the City, integration of those with disabilities will be accomplished to the maximum extent feasible.

The City of Pacifica will not tolerate a work environment that does not foster mutual understanding and respect among all individuals. The City of Pacifica will provide training to all employees in an effort to enable them to recognize, assess and respond to actions that are, or may be perceived as being harassment of disabled individuals.

The City of Pacifica has updated job descriptions so that they distinguish between essential and non-essential parts of the position. Job-qualification criteria, screening procedures, and aptitude tests will relate to essential parts of the job.

So that a qualified worker with disabilities can perform the essential functions of a specific job, the City of Pacifica will carry out the following on a case-by-case basis:

1. Identify the barriers to equal employment opportunity.
2. Explore accommodations that would enable effective performance of the essential job functions by the disabled.
3. Assess the reasonableness of each accommodation in terms of:
 - a) effectiveness of accommodation for that individual
 - b) hardship on the City

TITLE II PUBLIC SERVICE

Title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in programs, activities and services provided or operated by local or state governments.

Title II mandates that local governments self-evaluate all City programs, activities, and services which involves:

- 1) Examination of the program, activity or service.
- 2) Identification of problems or physical barriers that limit accessibility to the disabled.
- 3) Description of potential compliance solution that would remove existing barriers.

REQUIREMENTS INCLUDE:

- a. Necessary changes are to be made by and no later than January 26, 1995 unless undo hardship is shown.
- b. Newly constructed public facilities and public accommodations are designed to be accessible, unless it is structurally impractical to do so.
- c. Architectural barriers must be removed in existing public accommodations where removal is readily achievable.
- d. The City's Complaint Procedure must be formalized.

THESE REQUIREMENTS APPLY TO:

- city owned or leased buildings
- parks
- sidewalk curb cuts
- recreation programs
- city services

City owned or leased buildings:

City Hall - 170 Santa Maria Avenue: City Hall houses City Manager/Clerk, Personnel, and the Finance Department. City Hall has ADA compliance exceptions as an historical building. It is not accessible to individuals in wheelchairs, however any services provided from this building can be obtained in the City Hall Annex which is located at 1800 Francisco Boulevard.

ITEM	SOLUTION	COST
There is no access to the building for wheelchair users.	Provide ramp	\$5,000
There is no access to lower and second floor for wheelchair users	Provide elevator	\$50,000 +
Restroom is inaccessible.	Enlarge doors, stalls, and provide ramp.	\$8,000 +

Community and Economic Development - 1800 Francisco Blvd.: C.E.D. houses the City building, planning, and engineering divisions. The office is accessible to individuals in wheelchairs. The service counters are too high. A section of the counters need to be lowered to accommodate wheelchair users.

ITEM	SOLUTION	COST
Photocopier blocks access to the restroom for wheelchair users.	Move the photocopier.	\$0

P.B.R. - 1810 Francisco Blvd.: This building houses the Parks, Beaches and Recreation department. The building is accessible to those in a wheel chair through the rear of the building. The interior door to the office and the rest room door needs to be widened. The outside ramp needs a handrail.

ITEM	SOLUTION	COST
Doors to restrooms are too narrow	Widen doors to 32" clear space.	\$400
Office Doors are too narrow.	Widen office doors to 32" clear space.	\$400

Police Station - 1850 Francisco Blvd.: The police station houses administration, dispatch and records. The main lobby is not wheelchair accessible. A buzzer intercom has been provided for individuals in wheelchairs. There is a back entrance available which is accessible to wheelchairs. Services can be provided from the back area.

ITEM	SOLUTION	COST
There is no access to the main lobby for wheelchair users.	Provide ramp or chair lift.	\$10,000
There is no access to records and conference rooms.	Provide chair lifts.	\$8,000

Patrol Building - 171 Salada: This one story building houses the patrol division of the police department. No barriers have been noted, however members of public are not served in this building.

Cultural Arts Center Oddstad Park - 1050 Crespi Dr.: The Cultural Arts Center is used primarily by The Spindrift Players for preparation and presentation of theatrical performances. The main floor is accessible to those in a wheelchair but the second floor is not. Parking and signs are inadequate but, due to topography, additional parking is not feasible. Essential services, activities, and employment are not provided in this building.

ITEM	SOLUTION	COST
There is no sign that indicates handicapped parking area.	Provide signage.	\$200
Door to handicapped entrance would be impossible to open without assistance.	Install automatic door.	\$2,500

Pacifica Community Center - 540 Crespi Dr.: The Pacifica Community Center provides many classes and services to the community. The building is accessible and no barriers have been noted.

ITEM	SOLUTION	COST
The handicapped parking spaces need maintenance.	Outline handicapped spaces with blue paint.	\$300
There are no van accessible parking spaces provided.	Designate one of every eight spaces "van accessible".	\$200
There are no access aisles in the parking area that would prevent a wheelchair user from travelling behind parked cars to enter the building.	Provide adjacent aisle on passenger side of parking stalls (two stalls may share one access aisle).	\$2,500
Telephone does not have volume control.	Purchase telephone with volume control.	\$300

Fire Station - 616 Edgemar: This station is the headquarters fire station with administration and fire prevention offices. For this building to be accessible to individuals in wheelchairs parking and signs would be required, as well as major renovation of restrooms.

ITEM	SOLUTION	COST
There is no handicap parking.	Provide universal symbol, paint, and sign.	\$400
The restroom is substandard.	Enlarge restroom, door, and replace fixtures.	\$20,000

Fire Station - 635 Hickey Boulevard: This station is a two story fire station with offices and living spaces on the second floor. The station is inaccessible. A doorbell is provided, although services are not usually rendered directly to citizens from this building. First Aid, in a walk-in emergency, could be provided on the first floor.

ITEM	SOLUTION	COST
There is no access to the second floor for wheelchair users.	Provide elevator.	\$30,000

Fire Station - 1100 Linda Mar Boulevard: This station is a two story fire station. Parking is available at both levels and overall accessibility is good. The station needs handicap parking stalls and up-grade of the rest rooms and drinking fountain. Again, direct services to the public are not usually provided at this building.

ITEM	SOLUTION	COST
There is no handicap parking.	Provide universal symbol, paint, and sign.	\$200
The restroom is substandard.	Install handicap W.C.'s and grab bars.	\$2,000
The drinking fountain does not meet ADA requirements.	Purchase accessible drinking fountain.	\$720

Corporation Yard - 1080 Palmetto: The corporation yard contains two buildings used for maintenance and storage of City equipment and vehicles. Offices are on both the first and second floor. First floor entry is accessible, but the second floor offices are not. The bathroom is not accessible. In person public services are not usually provided in this building.

ITEM	SOLUTION	COST
The restroom is substandard.	Enlarge Restroom door, and replace fixtures.	\$20,000
There is no access to the second floor for wheelchair users.	Provide elevator.	\$30,000

Council Chambers - 2212 Beach Blvd.: Meeting room of City Council is located on second floor of Waste Water Treatment Plant.

ITEM	SOLUTION	COST
The drinking fountain does not meet ADA requirements.	Purchase accessible drinking fountain.	\$720
Telephone does not have volume control.	Purchase telephone with volume control.	\$500
The microphone is too high to be used by wheelchair users.	Provide alternate microphone that is lower.	\$300
The door to the restroom is not standard.	Replace door with a door that has a sweep time of 3 seconds minimum.	\$250

Valleamar Child Care - 377 Reina del Mar: This is a school building used by the City for child care. No barriers have been noted.

Cabrillo Child Care - 601 Crespi: This is a school building used by the City for child care. No barriers have been noted.

Westview Child Care - 367 Glencourt: This is a school building used by the City for child care. No barriers have been noted.

Sharp Park Child Care - 1427 Palmetto: This is a school building used by the City for child care. No barriers have been noted.

Fairmont West Recreation Center - 5066 Palmetto: This is a school building used by the City for child care. No barriers have been noted.

Resource Center - Palmetto: The Resource Center provides numerous services to the Pacifica community.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide sign and paint that indicate reserved handicapped parking in one spot.	\$400
The ramp to the back entrance is not standard.	Widen the ramp, not including flared sides, to a minimum of 48".	\$1,500
The built-up curb ramp projects into vehicular traffic lanes.	Rebuild and reroute ramp.	\$1,500
Handrails are not provided on the ramp which is necessary because the rise is greater than 6".	Provide handrail.	\$1,000
Telephone does not have volume control.	Purchase telephone with volume control.	under \$300
Front access is blocked by table which limits clear space to 45".	Move table and restore the minimum 48" minimum clear space.	
The rear grab bar in the restroom is too short.	Replace rear grab bar with a bar that is 36" minimum in length.	\$200

Parks:

Frontierland - Yosemite Drive:

Frontierland is the most utilized park in the City. The park features a play area, many picnic areas, walking and exercise paths, a restroom, and a reserve cooking area for large groups. The City also holds its annual Fourth of July celebration at Frontierland. The park is not wheelchair accessible. Two solutions exist for accessibility. The first is to build access from the lower parking lot which would require redesigning the entrance with a slope of 1 to 12 with a ramp and handrails. The cost would be substantial. The second alternative is to use the circular cove at the upper entrance. A gate was installed outside this area to prevent vandals from driving into the park, but the cove was utilized for handicap parking in the past. This alternative would

require a fence or post outside the cove to act as protection against vandals. The latter of the alternates is more cost effective because it does not require major redesigning.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide parking in the top cove, poles, and signs. 4 spaces.	\$500
For safety reasons a fence or poles must be installed when the gate is removed from the top cove to allow for parking.	Install fence or poles around vulnerable areas, excluding entrance, wide enough to accommodate a wheelchair.	\$1120
Public Works must have access to park in City truck for service.	Install two retractable posts in cove that allow for service access and pave turnaround.	\$2400
Signs must be provided at lower lot to alert wheelchair users to parking at upper level.	Install pole and sign.	\$600
The park does not have picnic tables that accommodate wheelchair users.	Purchase picnic tables that accommodate wheelchair users.	\$825
The rest room does not meet codes.	Raise bars from 13" to 33".	\$500
It is difficult to remove the lid from the reserve cooking area.	Provide assistance upon request.	\$0
The drinking fountain does not meet ADA requirements.	Purchase accessible drinking fountain.	\$720
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm resilient safety surface.	\$50,000
TOTAL COST		\$56,665

Fairmont West Park - Palmetto Ave.:

Fairmont West is a well used facility because of location and the recreation center located on the premises. Fairmont West has one of the only standard handicap picnic tables in the City.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide two spaces with universal markings, pole and sign. Ensure that spaces allow for adjacent access aisle on the passenger side of the parking stall (two stalls may share an access aisle located between them). 2 stalls.	\$500
The drinking fountain does not meet ADA requirements.	Purchase accessible drinking fountain.	\$720
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient safety surface.	\$21,000
TOTAL COST		\$22,270

Fairmont Park & Recreation Center - Parkview Circle:

Fairmont Park and Recreation Center is a well used facility. City programs are often conducted at this site.

ITEM	SOLUTION	COST
The handicap parking area needs a second curb cut for accessibility.	Cut curb on right side of parking area at entrance path.	\$1,000
The park does not have picnic tables that accommodate wheelchair users.	Purchase picnic tables that accommodate wheelchair users.	\$825

Barrier exists in oval concrete path.	Remove bench and restore path to 48" access.	\$200
The drinking fountain is not wheelchair accessible.	Purchase a drinking fountain with an alcove width of 32" and alcove depth between 18" and 24".	\$720
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient safety surface.	\$50,000
TOTAL COST		\$52,745

Fairway Park - Cindy Way:

Fairway Park is a baseball park that has three diamonds. The park holds Little League games which draw large crowds that often fill the parking area. The snack area is accessible.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide signs and paint that indicate reserved handicapped parking at each of the three diamonds.	\$840
The surface in the parking area is gravel and will not allow for markings.	Pour concrete slab under handicap parking area.	\$4,200
TOTAL COST		\$5,040

Edgemar Park - Fremont Ave.:

Edgemar Park is a well used and maintained neighborhood park.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide spaces with universal markings, pole and sign.	\$400
There is not a curb cut for access from the street.	Cut curb.	\$1,000

Picnic tables do not accommodate wheelchair users.	Purchase tables that accommodate wheelchair users.	\$825
The drinking fountain does not meet ADA requirements.	Purchase accessible drinking fountain.	\$720
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient safety surface.	\$21,000
TOTAL COST		\$23,945

Pomo Park - Carmel Ave. & Canyon Dr.:

Pomo Park has many barriers to accessibility, but because of its small size (.4 acres) and infrequent use, the City may chose to focus its energies elsewhere.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide spaces with universal markings, pole and sign.	\$400
There is not a curb cut for access from the street.	Cut curb.	\$1,000
Need path in park that is paved and barrier free.	Pave path that provides accessibility to both entrances and the play area.	\$100
There are general maintenance barriers that block clear space on walk, around the bench, and to the garbage can.	Service the park regularly.	\$7,500 yearly
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient safety surface.	\$12,000
TOTAL COST		\$21,000

Promenade Sharp Park - Beach Blvd.:

The Promenade offers walking paths along the beach, picnic areas, and ocean access. All of these features are wheelchair accessible. The Promenade has standard handicap picnic tables.

ITEM	SOLUTION	COST
The indicators of the handicap parking are not standard.	Provide a sign that is high enough that it will not be obscured by parked vehicles.	\$120
TOTAL COST		\$120

Pacifica Municipal Pier - Beach Blvd. & Montecito Ave.:

The Pier provides fishing and an ocean view. It is wheelchair accessible.

TOTAL COST: 0

Imperial Park - Imperial Drive:

Imperial Park is a very small neighborhood park with a play area.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	No change necessary because of size.	\$0
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient safety surface.	\$12,000
TOTAL COST		\$12,000

Horizon Park - Horizon Drive:

This area is not developed.

Calera Creek Park Way - Reina del Mar:

This area is underdeveloped.

Brighton Mini Park - Brighton Rd.:

Brighton Mini Park has many barriers to accessibility, infrequent use.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	No change necessary because of size.	\$0
The front gate is not accessible.	Replace 35" gate with a 42" gate.	\$200
There is no access to the walk adjacent to the park from the street.	Provide curb cut.	\$1,000
There are general maintenance barriers that block clear space on walk, around the bench, and to the garbage can.	Service the park regularly.	\$7,500 yearly
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient surface.	\$12,000
TOTAL COST		\$13,000

Palmetto Mini Park - Palmetto Ave. & Brighton Rd.:

This Mini Park provides a small play area, picnic tables, and park benches.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide a parking space with pole and sign for marking.	\$400
There is no curb cut that would allow wheelchair access.	Cut curb parallel to handicap parking space.	\$1,000
Picnic tables do not accommodate wheelchair users.	Purchase tables that accommodate wheelchair users.	\$825
The garbage disposal area does not have an access path.	Stabilize garbage can near walk.	\$20
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient safety surface.	\$12,000

Play area is not accessible to wheelchair users.	Pack gravel on slope for play area access.	\$300
		\$14,545

Rockaway Beach Plaza/ Boardwalk - Rockaway Beach Blvd.:

This is a newly developed shopping/dining/recreation area. It is equipped an adequate number of handicap parking spaces and ramps for wheelchair accessibility. No barriers have been noted.

Cultural Arts Center Oddstad Park - 1050 Crespi Dr.:

Oddstad Park has an upper and lower level. The upper level is a picnic area that requires small changes to achieve accessibility while the lower level is a play area that would require major reconstructing to achieve accessibility.

ITEM - UPPER LEVEL	SOLUTION	COST
There is no handicap parking.	Mark spot closest to park with universal symbol. Provide pole and sign.	\$400
There is a hazard in the slope of the walkway.	Fill in lip and return slope to a 1 to 15 ratio.	\$100
The picnic table does not accommodate wheelchair users.	Purchase a picnic table that accommodates wheelchair users.	\$825
ITEM - LOWER LEVEL	SOLUTION	COST
Stairs offer the only access to lower play area.	Cut gradual winding path with hard smooth surface and railing down to lower play area.	\$3,150 (1 or 2 heritage trees removed.)
Play area has no way in or around for wheelchair users.	Provide 38" path around the play area with accessible path into play area.	\$3000
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient safety surface.	\$12,000

TOTAL COST	\$19,475
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Pacifica Community Center - 540 Crespi Dr.:
This park is a model of compliance.

ITEM	SOLUTION	COST
Picnic tables do not accommodate wheelchair users.	Purchase tables that accommodate wheelchair users.	\$825
TOTAL COST		\$825

Portola Park - Arguello:
Portola Park is a high use park.

ITEM	SOLUTION	COST
There is no handicap parking.	Mark spot closest to park with universal symbol. Provide pole and sign.	\$1,400
There is not a curb cut for access from the street.	Cut curb.	\$1,000
Barrier exists in concrete path.	Move garbage can and restore path to 42" access.	\$400
The surface around play area does not meet CPSC safety requirements.	Excavate sand, fill area in with firm, resilient safety surface.	\$21,000
TOTAL COST		\$23,800

Facilities maintained by the City for the Laguna Salada Union School Districts:

Westview School Athletic Field - Glencourt Way & Glasgow Dr.:

The Westview School Athletic Fields are used often by the City. There are future plans to build a soccer field at this site.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide parking in the top area where a spot is currently marked but blocked.	\$0
Handicapped parking space is blocked.	Remove retractable poles that block access to handicapped parking area.	\$0
Without the retractable poles the playfields are vulnerable to vandals.	Provide alternate site that allows for access to the handicap parking area while protecting the fields from vandals.	\$1,120
TOTAL COST		\$1,120

Sharp Park School Ballfields 1427 Palmetto Ave.:

This ballfield is used by the City for its Adult Softball League.

ITEM	SOLUTION	COST
There is no handicap parking at this site.	Provide signs and paint that indicate reserved handicapped parking at the two spaces closest to the field.	\$840
The surface in the parking area is gravel and will not allow for markings.	Pour concrete slab under handicap parking area.	\$4,200
TOTAL COST		\$5,040

Valleamar School Playfields - Reina del Mar & Reichling:

Valleamar School Playfields are used only for Little League practice. No barriers have been noted.

Ortega School Playfields - 1283 Terra Nova Blvd.:

This playfield is used heavily by the City. This is the site of numerous soccer and baseball events as well as the site of the P.B. & R. summer baseball program.

ITEM	SOLUTION	COST
There is no handicap parking.	Mark two spots closest to playfield with universal symbol. Provide pole and sign.	\$800
TOTAL COST		\$800

Oddstad School Playfields - 930 Oddstad Blvd.:

ITEM	SOLUTION	COST
There is not a sufficient number of handicapped spaces.	Mark second spot with universal symbol. Provide pole and sign.	\$1,400
There is not a curb cut for access from the street.	Cut curb.	\$1,000
TOTAL COST		\$2,400

Cabrillo School Playfields - 601 Crespi Dr.:

There are two playfields at this site. They are used by the City for Little League and Girls Softball. These fields are inaccessible and would require major reconstruction to achieve accessibility. The City currently uses this site infrequently and it is recommended that the City choose another site to offer services in the future.

Linda Mar School Playfields - 830 Rosita Rd.:

This site is used by Girls Softball and numerous soccer organizations.

ITEM	SOLUTION	COST
There is no handicapped parking at this site.	Provide two spaces, signs, poles, and paint for universal markings.	\$550
TOTAL COST		\$550

CITY OWNED PARKS

COST TO ACHIEVE ACCESSIBILITY

Frontierland	\$56,665
Fairmont West Park	\$22,270
Fairmont Park & Recreation Center	\$52,745
Fairway Park	\$5,040
Edgemar Park	\$23,945
Pomo Park	\$21,000
Imperial Park	\$12,000
Brighton Mini Park	\$13,000
Palmetto Mini Park	\$14,545
Cultural Arts Center Oddstad Park	\$19,475
Pacifica Community Center Park	\$ 825
Portola Park	\$23,800

TOTAL: \$265,310

Facilities maintained by the City for Laquna Salada Union School District
 Total cost to achieve accessibility: \$8,110

To achieve accessibility of all City owned and leased parks the cost is estimated at \$273,420.

Streets and Sidewalks

The City of Pacifica consists of several neighborhoods with distinct characteristics. Many of the neighborhoods were developed in the first part of the century with several upgrades over the decades. Many of the neighborhoods were developed in the 1960s and 1970s before the requirements for handicapped access were established. Consequently, the lack of handicapped ramps is prevalent throughout the city. The City of Pacifica maintains 88.5 miles of streets. The condition of the sidewalks in most cases is good; however, there are many areas that either have no sidewalks or the usability of the sidewalks is impaired by the damage caused by tree roots. With 88.5 miles of streets, one could expect that there are over 4 million square feet of sidewalk within the city's maintenance area. There are approximately 1,000 intersections in the city which would generate over 4,000 corners that may require handicapped ramps.

The State of California operates Highway 1 through the city. The highway was built during the 1960s and lacks many of the accessibility features used in current design. The highway is the responsibility of Caltrans and the reader is referred to their accessibility plans and policies for issues related to the highway. The areas adjacent to the highway present special problems and there may be areas of joint responsibility.

The San Mateo County Transit District is responsible for providing bus transit services. They operate several routes in the city. The reader is also referred to their accessibility plans for further information on issues related to bus service in the city. Current design procedure does not provide for sidewalk ramps at bus stops. The buses have mechanisms for loading wheelchair passengers. The city's responsibility in relation to bus stops is limited to providing a safe walking surface in the sidewalk area of the bus stop. All signs, curbs and bus shelters at bus stops are the responsibility of the transit district.

The accepted method for retrofit of sidewalks to improve accessibility is the construction of handicap access ramps. The standard for this construction is included in the appendix of this report. The cost for construction of these ramps is approximately \$1,000 each. Cost savings may be realized by constructing several ramps in one competitively bid contract.

While it is desirable to provide handicapped ramps at each corner on all streets, the city's approach is to focus on the streets that might receive the highest amount of use by the disabled community. Individual complaints and requests for handicapped ramps are considered on a case by case basis. For the purposes of the self assessment, the

city surveyed the major streets and bus routes. The results of that survey are presented in the form of maps included in the appendix.

Most of the corners surveyed did not have ramps. Over the years, as the need for ramps was becoming more publicly accepted, most agencies adopted various standards for ramp construction. The evolution of the standard is evident in Pacifica as in other cities. Consequently, there are many ramps in existence which do not strictly conform to the current standard. It is recommended that the plan focus on installing new ramps where they are needed and not on reconstructing otherwise serviceable existing ramps. The survey found that out of the 526 corners inspected, 145 had existing handicapped ramps. Of those existing, only 19 were in strict conformance with the current standard. It is determined that the 126 nonstandard ramps are of a serviceable condition and no reconstruction is recommended at this time.

The city has installed a number of handicapped parking zones (blue zones) on city streets. These have, for the most part, been installed on a case by case basis in response to specific requests. There is a need for a comprehensive evaluation of all the blue zones on city streets to determine the appropriate placement. A balance is needed to provide handicapped parking and to maximize parking in business areas. It is recommended that the city continue to evaluate blue zone needs on a case by case basis for the near future.

There exist two pedestrian crossings over the freeway and one underpass. The underpass is in good condition and is in conformance with accessibility requirements. The two overpasses are a joint responsibility of the City and of Caltrans. Caltrans is responsible for the structure, piers and foundations of the overpasses. The City is responsible for the walkway and railings for the overpasses. The survey found that the sidewalks leading up to the ramps need to have ramps installed. The overcrossing at Milagra Drive presents a difficult problem as the ramp leads to a section of street that requires the construction of ramps across a median island and the construction of sidewalks leading to adequate ramps. These improvements are feasible and will be included in the first phase of the construction plan. The existing structure, as designed and built by Caltrans, does not meet current standards. The slope of the ramp exceeds the required 1:12 slope. While the slope is substandard, the ramp is serviceable. Correction of the slope would require total reconstruction of the overcrossings. The cost of this reconstruction could exceed \$1 million each. There are no plans at this time to replace these structures. It is expected that a cost benefit analysis would be done in the future to determine if replacement is warranted. The project would most likely be the responsibility of Caltrans. However, the decking, railings and fencing of both overcrossings should be replaced in the very near future. When this work is done by the city, the railings will meet accessibility standards, but the basic structure will remain unchanged.

The potential costs for various projects is as follows:

- | | |
|---|-------------|
| 1. Construct handicapped ramps on bus routes and major streets: | \$381,000 |
| 2. Construct ramps on all other corners in the city: | \$4 million |
| 3. Perform study for blue zones and install as required: | \$50,000 |
| 4. Upgrade accessibility of existing freeway overcrossings: | \$100,000 |
| 5. Repair sidewalks as needed: | \$1 million |

RECREATION PROGRAMS:

The Community Center:

ACTIVITIES/FUNCTIONS

The Community Center is the location of large majority of the programs offered in the City of Pacifica. The Center is in its entirety ADA accessible. The policy of the Community Center has been and will continue to be that every person is entitled to services regardless of disability. In the past, the City has provided signers to assist the hearing disabled to participate in organized activities and will continue this practice in the future upon request.

A. Pre-School Classes

DESCRIPTION OF BARRIERS

Vision Impaired:

A large portion of these classes are taught visually. Braille and magnifying equipment are unavailable.

Hearing Impairment:

Telephones are not equipped to handle calls from the hearing impaired. Instructions are typically given verbally.

Speech Impairment:

Verbal communication is required.

Wheelchair Users:

Easels, tables, and work tables are not adjustable.

METHODS FOR MODIFYING BARRIERS

Vision Impaired:

Any visual direction could be given verbally. If braille or magnifying equipment became necessary it could be provided.

Hearing Impaired:

An interpreter will be provided if given advance notice. Staff will use the TDD in the police station to accommodate calls from the hearing impaired.

Speech Impairment:

An interpreter will be provided if given advanced notice.

Mental Disability:

Staff can cater to different levels of understanding. The City would attempt to provide extra staff if necessary.

The Community Center

Wheelchair Users:

Adjustable easels and work tables could be purchased.

B. Jazz Dance/Gymnastics/Aerobics

DESCRIPTION OF BARRIERS

Visual Impairment:

A large portion of these classes are taught visually.

Hearing Impairment:

Telephones are not equipped to handle calls from the hearing impaired. Instructions are given verbally.

Wheelchair Users:

Some of the movements done in the classes would be difficult for an individual in a wheelchair.

METHODS FOR MODIFYING BARRIERS

Vision Impaired:

Any visual direction could be given verbally.

Hearing Impaired:

An interpreter will be provided if given advance notice. Staff will use the telephone in the police station to accommodate calls from the hearing impaired.

Wheelchair Users:

Staff could self-pace the class so that where possible, individuals in wheelchairs could design a program to accommodate special needs.

C. Management Classes

DESCRIPTION OF BARRIERS

Vision Impaired:

Braille is unavailable.

Hearing Impairment:

Telephones are not equipped to handle calls from the hearing impaired. Oral instructions play a major role in these classes.

METHODS FOR MODIFYING BARRIERS

Vision Impaired:

Any visual direction could be given verbally. Written materials can be enlarged and magnifying equipment is available. If braille became necessary it could be provided if economically feasible.

Hearing Impaired:

An interpreter will be provided if given advance notice. Staff could use the telephone in the police station to accommodate calls from the hearing impaired.

Mental Disability:

Staff can cater to different levels of understanding. The City could provide extra staff if necessary.

Services provided at other sites:

Teen Program

ACTIVITIES/FUNCTIONS

Teen services provide summer and after school activities and sports programs for teens.

DESCRIPTION OF BARRIERS

Vision Impaired:

None of the written material (flyers, etc.) is available in any other format. Braille and magnifying equipment are unavailable.

Hearing Impaired:

Telephones are not equipped to handle calls from the hearing impaired. A deaf person cannot hear oral instructions. Staff is not trained in communicating with a hearing impaired person.

Wheelchair Users:

The facility in its entirety is accessible.

METHODS FOR MODIFYING BARRIERS

Vision Impaired:

Written materials can be enlarged. If braille or magnifying equipment become necessary it could be provided.

Hearing Impaired:

An interpreter will be provided if given advance notice. Staff could use the telephone in the police station to accommodate calls from the hearing impaired.

Mental Disability:

Staff can cater to different levels of understanding. The City could provide extra staff if necessary.

Aquatics Programs

ACTIVITIES/FUNCTIONS

Aquatics programs are offered by the City year round at the Oceana pool and in the summer at the Terra Nova pool. The Oceana pool is the preferred site for individual with mobility impairments because the pool parking area is equipped with handicap parking spaces, a ramp into the building, and a ramp into the pool. Oceana's programs are identical to those offered by at Terra Nova.

OCEANA POOL

DESCRIPTION OF BARRIERS

Vision Impaired:

None of the written material (flyers, etc) is available in any other format. Braille and magnifying equipment are unavailable.

Hearing Impaired:

Telephones are not equipped to handle calls from the hearing impaired. Oral instructions play a central role in the programs. Staff is not trained in communicating with a hearing impaired person.

Wheelchair Users:

The facility in its entirety is accessible.

METHODS FOR MODIFYING BARRIERS

Vision Impaired:

Staff could assist with reading and filling out registration forms. Any visual direction could be given verbally. Written materials can be enlarged. If braille or magnifying equipment became necessary it could be provided.

Hearing Impaired:

An interpreter will be provided if given advance notice. Staff could use the telephone in the police station to accommodate calls from the hearing impaired.

Mental Disability:

Staff can cater to different levels of understanding. The City could provide extra staff if necessary.

CITY SERVICES:

Police Services:

A. Neighborhood Watch Program

SERVICE/FUNCTIONS

The Police Department provides concerned citizens with the materials necessary to organize a neighborhood watch group. Blocks of residents are organized to watch over the neighborhood and report any suspicious activities.

DESCRIPTION OF BARRIERS

Vision Impaired:

Brochures and pamphlets are not available in any other format. Braille and magnifying equipment are unavailable.

Hearing Impairment:

Videos are used as instructional aids.

Wheelchair Users:

Many of the neighborhood watch meetings are conducted at private residences which are not accessible.

METHODS FOR MODIFYING BARRIERS

Vision Impaired:

Any written materials (brochures and pamphlets) could be enlarged or verbally communicated by staff. If braille or magnifying equipment became necessary it could be provided.

Hearing Impaired:

Closed caption videos could be purchased. An interpreter could be provided if given advance notice.

Wheelchair Users:

The Police Station or Community Center could be used as a meeting place.

B. 911 Emergency Service

This program is accessible to all citizens. The telephones used are equipped to accommodate calls from the hearing and speech impaired.

CHILD CARE

SERVICE/FUNCTION

Child care is provided to the citizens of Pacifica in an effort to assist the working parents in the community.

Child Care Services provided from Westview, Sharp Park, Cabrillo, Pacific Manor and Vallemar Elementary School sites:

DESCRIPTION OF BARRIERS

Vision Impaired:

Braille and magnifying equipment are unavailable.

Hearing Impairment:

Telephones are not equipped to handle calls from the hearing impaired. Instructions are typically given verbally.

Speech Impairment:

Verbal communication is not required but is helpful.

Wheelchair Users:

The playground equipment, easels, tables, and work tables are not adjustable.

METHODS FOR MODIFYING BARRIERS

Vision Impaired:

Any visual direction could be given verbally. If braille or magnifying equipment became necessary it could be provided.

Hearing Impaired:

An interpreter will be provided if given advance notice. Staff will use the telephone in the police station to accommodate calls from the hearing impaired.

Speech Impairment:

An interpreter will be provided if given advanced notice.

Mental Disability:

Staff can cater to different levels of understanding. The City could provide extra staff if necessary.

Accessible play equipment could be purchased or staff could provide assistance to allow a wheelchair user to use the equipment in place.

Fire Department Services

SERVICES/FUNCTION

Fire Department services are provided via emergency number 911. These telephones are equipped with TDD to handle calls from the hearing and speech impaired. If a citizen chose to receive services at the fire stations they are accessible to wheelchair users.

The Resource Center

SERVICE/FUNCTIONS

The Resource Center provides numerous services to those in need in the community.

DESCRIPTION OF BARRIERS

Vision Impaired:

None of the written material (flyers, etc) is available in any other format. Braille and magnifying equipment are unavailable.

Hearing Impairment:

Telephones are not equipped to handle calls from the hearing impaired. Oral instructions are a major role in many programs. There is not a sign interpreter on site.

Speech Impairment:

Verbal communication is required.

Mental Disability:

The programs offered are not self-paced.

Wheelchair User:

The Resource Center is accessible to those in wheelchairs. An accessible restroom is available.

METHODS FOR MODIFYING BARRIERS

Vision Impaired:

Any written materials (applications, brochures, and handouts) will be verbally communicated by staff. If braille or magnifying equipment became necessary it could be provided.

Hearing Impaired:

An interpreter will be provided if given advance notice. Staff will use the telephone in the police station to accommodate calls from the hearing impaired.

Speech Impairment:

An interpreter will be provided if given advanced notice.

Mental Disability:

The staff works with clients in interviews and will provide explanations and offer assistance if necessary. Staff could cater to different levels of understanding and provide special assistance if necessary.

TRANSITION PLAN

CITY OF PACIFICA
AMERICANS WITH DISABILITIES ACT
TRANSITION PLAN

I. BACKGROUND

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990. The Act provides a clear and comprehensive mandate for the elimination of discrimination against individuals with disabilities. One of the requirements of this Act is the adoption of a Transition Plan which outlines the steps necessary to complete structural changes for access improvements to public facilities and services:

This proposed City of Pacifica Transition Plan will evaluate specific changes to be made to:

1. City owned/leased facilities
2. Parks
3. Sidewalk curb cuts
4. Recreation programs
5. City services

These changes will be made in order to comply with the access requirements of the American Disabilities Act. All of these feasible changes are to be completed by July 26, 1995.

II. TRANSITION PLAN PROCESS

The work on this Transition Plan will begin with a review committee representing individual departments within the City and a community interest group representing both disabled and non-disabled individuals. Both groups will give input and suggestions to staff and to the City Council for the access needs of the community.

The City has conducted a thorough accessibility evaluation of each City owned or leased facility, park, pedestrian thoroughfare and transit access point, City-sponsored or endorsed program, and all City services.

A complaint procedure can be found in Attachment B along with a "Request Form". Any citizen's requests for accessibility improvements should be made at the Personnel Office. The Compliance Officer, or a designated representative, may direct the Request Forms to the appropriate City Staff.

Access improvements are not limited to the proposed changes identified in the Transition Plan process. Any Requests for additional ADA access improvements will be considered.

III. TRANSITION PLAN SCHEDULE

The following is a proposed schedule for the Transition Plan Process:

City Council appoint ADA review committee	October, 1994
Preliminary FY1994-95 budget request for access modifications submitted to the City Council.	March 1995
Staff training to review compliance regulations and improve communications with and modify behavior towards disabled individuals.	December 1994
Submit review committee report to identify structural changes for access improvements to public facilities and services (revised Transition Plan).	January 1995

IV. COST CONSIDERATIONS

In each of the five listed areas of the Transition Plan, cost estimates will be prepared for accessibility improvements. Potential sources of improvement funding include Community Development Block Grant funds (CDBG), General Fund, Capital Improvement Project Fund (CIP) and donations. Cost summaries for proposed changes in each of the five listed general areas will be determined. The proposed changes will be prioritized.

V. CONTINUED SELF-EVALUATION

A self-evaluation should be completed at the end of each fiscal year. Recommendations will be brought to the City Council in each budgetary period.



ATTACHMENT A

The City of Pacifica hereby adopts an internal complaint procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice, regulations, implementing the Americans with Disabilities Act (ADA). The ADA states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in any program sponsored by a public entity. Before filing a complaint, the City strongly urges a complainant to first work with City staff to resolve the complaint. Refer to the attached Request Form.

Complaints shall be addressed to Director of General Services, City of Pacifica, 170 Santa Maria Avenue, Pacifica, CA 94044; telephone number (415) 738-7302.

1. A complaint should be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
2. A complaint should be filed within 30 calendar days after the complainant becomes aware of an alleged violation.
3. An investigation, as may be appropriate, shall follow a filing of a complaint. The appropriate investigation will be conducted by the ADA Compliance Officer or a designated representative. These rules contemplate informal, but thorough, investigations affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
4. A written determination as to the validity of the complaint and description or resolution, if any, shall be issued by the ADA Compliance Officer and be forwarded to the complainant no later than 30 calendar days after its filing.
5. The ADA Compliance officer shall maintain the files and records of the City of Pacifica relating to the complaints filed.
6. If complainant is not satisfied with the determination of the Compliance Officer, he/she may appeal to the City Council. The request for reconsideration should be made within 30 days to the City Manager.
7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

8. These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that the City of Pacifica complies with the ADA and implementing regulations.

ATTACHMENT B: TITLE I AMERICANS WITH DISABILITIES COMPLAINT FORM
FORMAL AMERICANS WITH DISABILITIES COMPLAINT FORM
TITLE I - EMPLOYMENT
(CONFIDENTIAL)

STATEMENT OF COMPLAINT (attach other sheets if necessary)

DATE AND TIME OF INCIDENT: _____

LOCATION OF INCIDENT: _____

NAME(s) OF PERSON(s) RESPONSIBLE: _____

WITNESS(es): _____

DESCRIPTION OF INCIDENT(s): (Please state specific conduct about which you are complaining.)

RESOLUTION REQUESTED: _____

SIGNATURE OF COMPLAINANT: _____

Date/Time

Complaint Submitted to:

Department Director's Signature

Date Received

Director of General Services Signature

Date Received

(Complaint need not be submitted to Department Director if he or she was involved in the incident(s).)

IF COMPLAINT IS BY AN EMPLOYEE:

NAME: _____ JOB TITLE: _____

DEPARTMENT: _____ SUPERVISOR: _____

ATTACHMENT C: REQUEST FORM

CITY OF PACIFICA
AMERICANS WITH DISABILITIES ACT
REQUEST FORM

NAME: _____ DATE: _____

ADDRESS: _____

PHONE: (H) _____ (W) _____

1) What is your request for service?

2) What ideas or resources do you have that would help the City address your request?

3) City staff notes:

4) Return to:

Personnel Office/City of Pacifica
170 Santa Maria
Pacifica, CA 94044

(415) 738-7302

CITY OF PACIFICA

CALIFORNIA
MAY 1994

0 1000 2000 3000
SCALE IN FEET

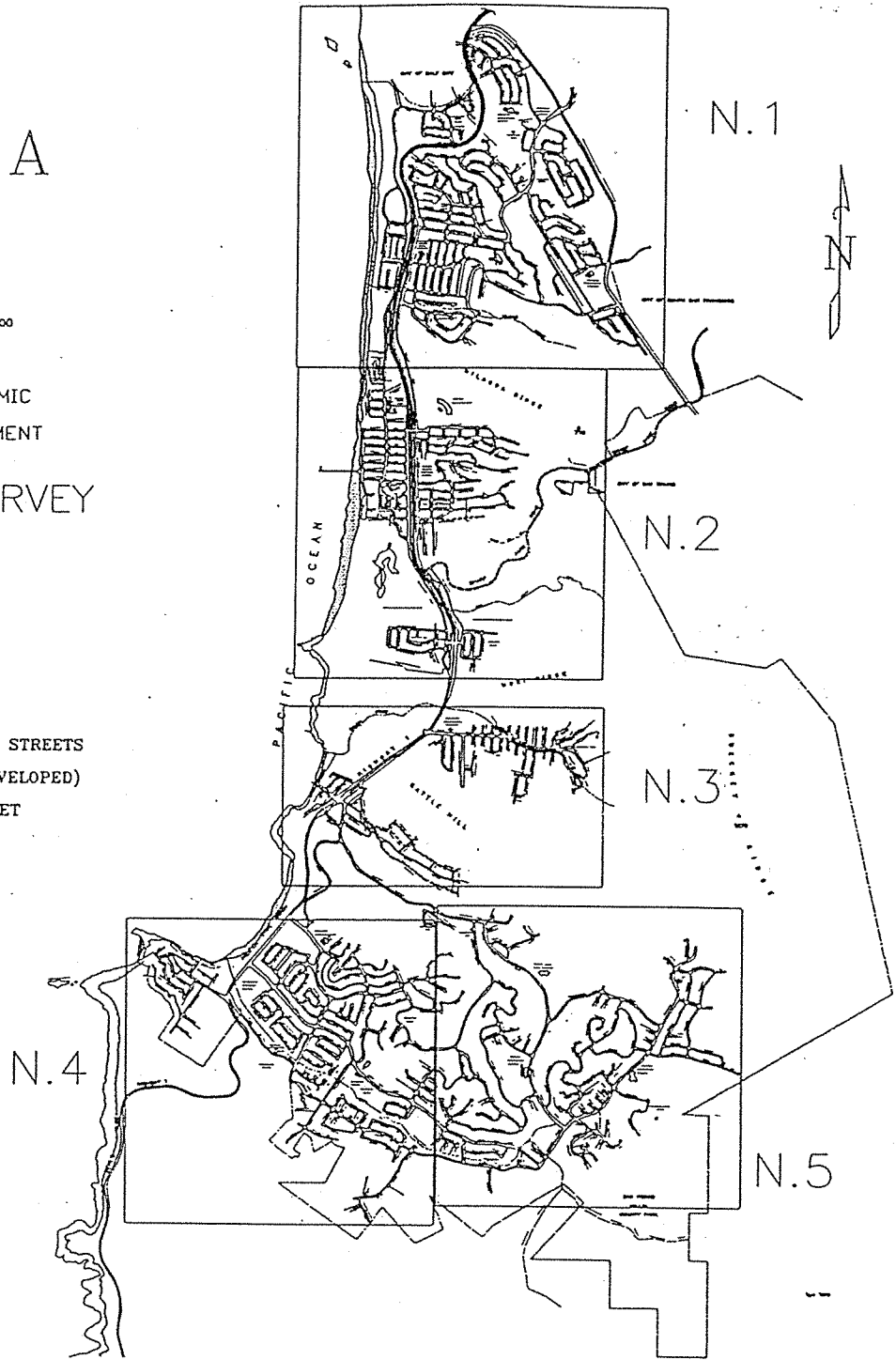
COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT

HANDICAP RAMP SURVEY JULY 1994

LEGEND

- == CITY STREETS
- PRIVATELY MAINTAINED STREETS
- == PAPER STREETS (UNDEVELOPED)
- △ PEAK ELEVATION IN FEET
- ⋯ SANDY BEACH
- == OCEAN BLUFFS
- SUBSTANDARD RAMP
- ◐ STANDARD RAMP
- ✕ NO RAMP

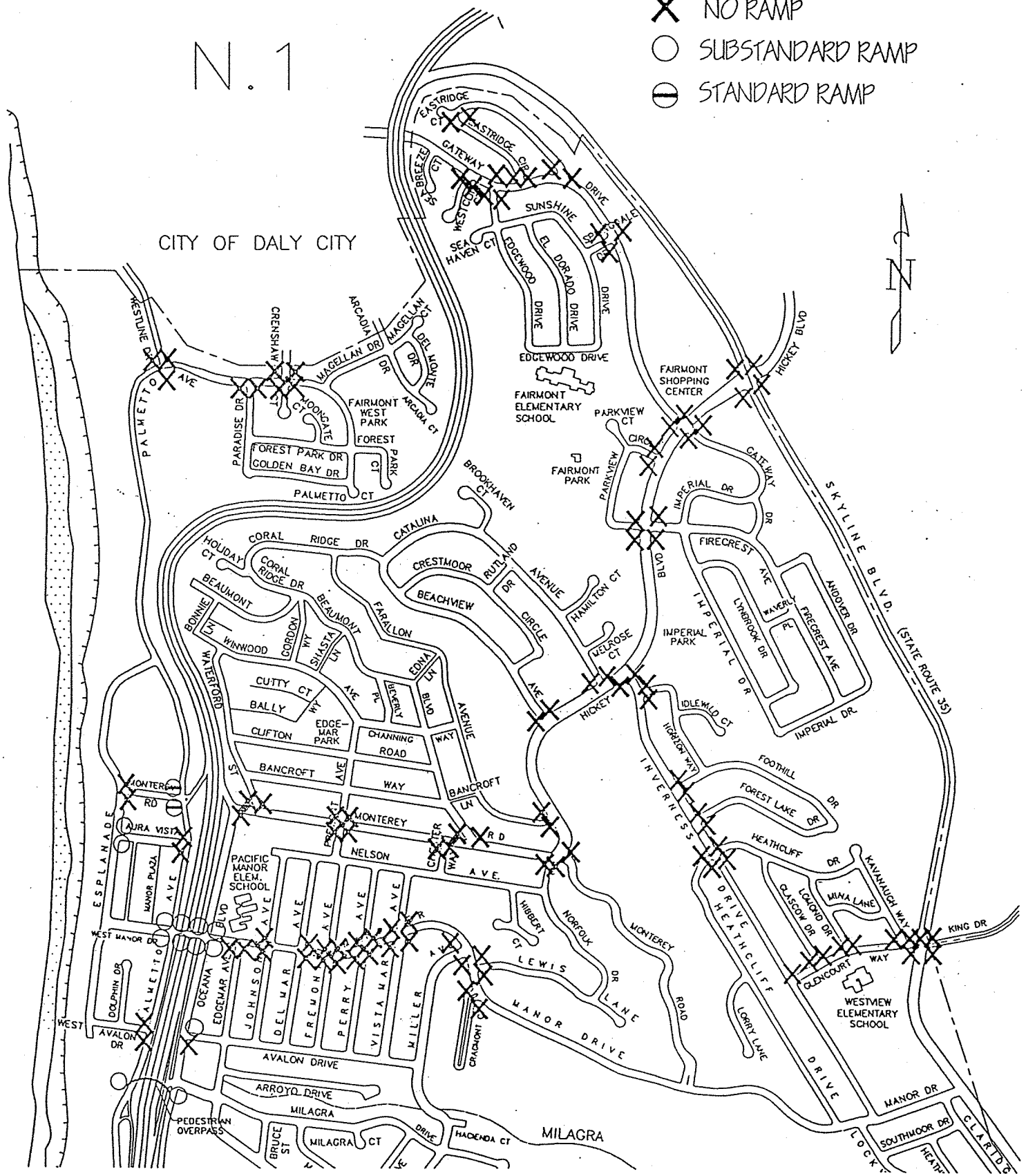
THIS MAP IS BASED ON
SURVEY OF FIELD
CONDITIONS ON MAJOR STREETS
AND BUS ROUTES.

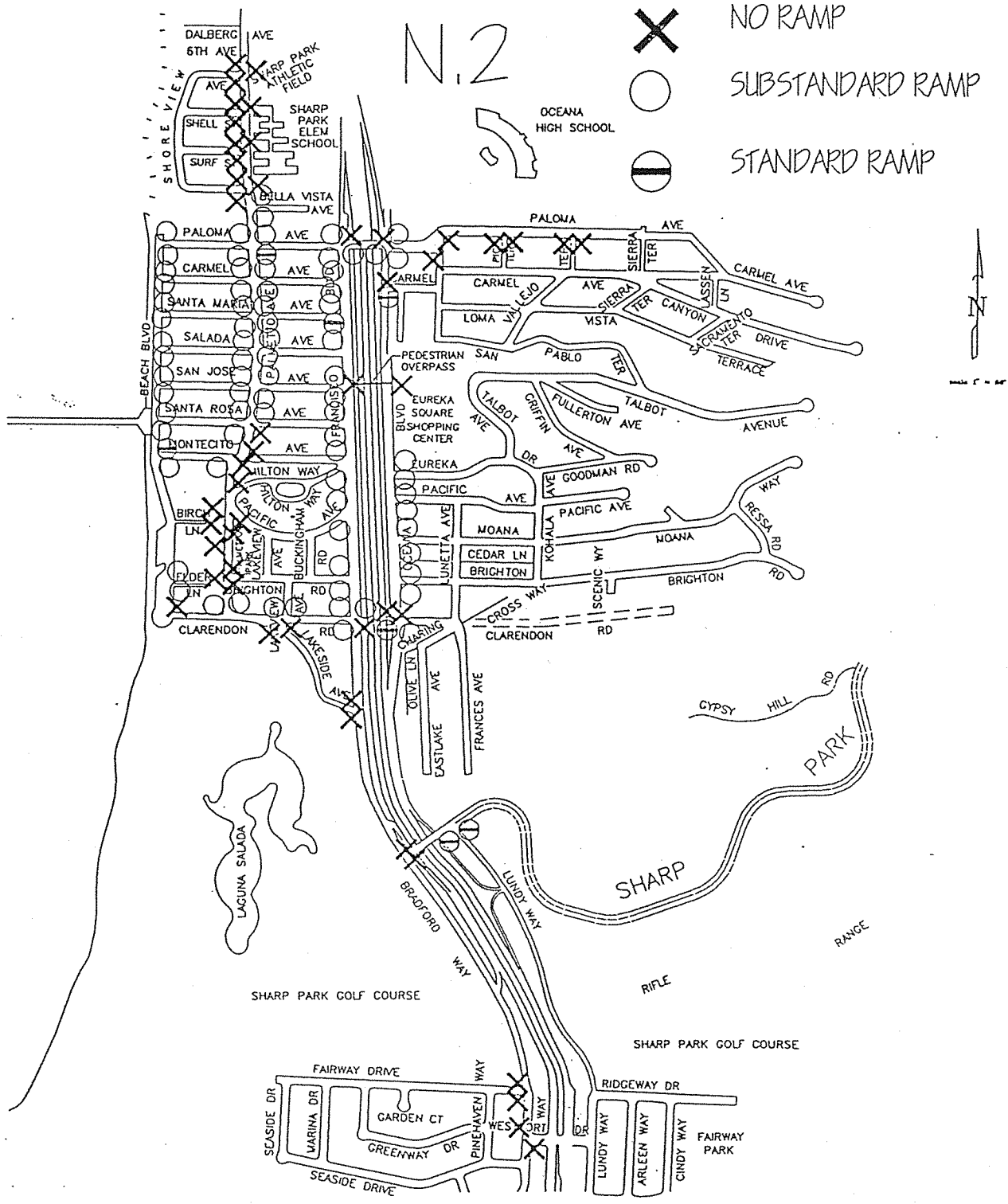


N. 1

- X NO RAMP
- SUBSTANDARD RAMP
- ◐ STANDARD RAMP

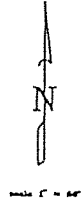
CITY OF DALY CITY





N.2

OCEANA HIGH SCHOOL



N. 3



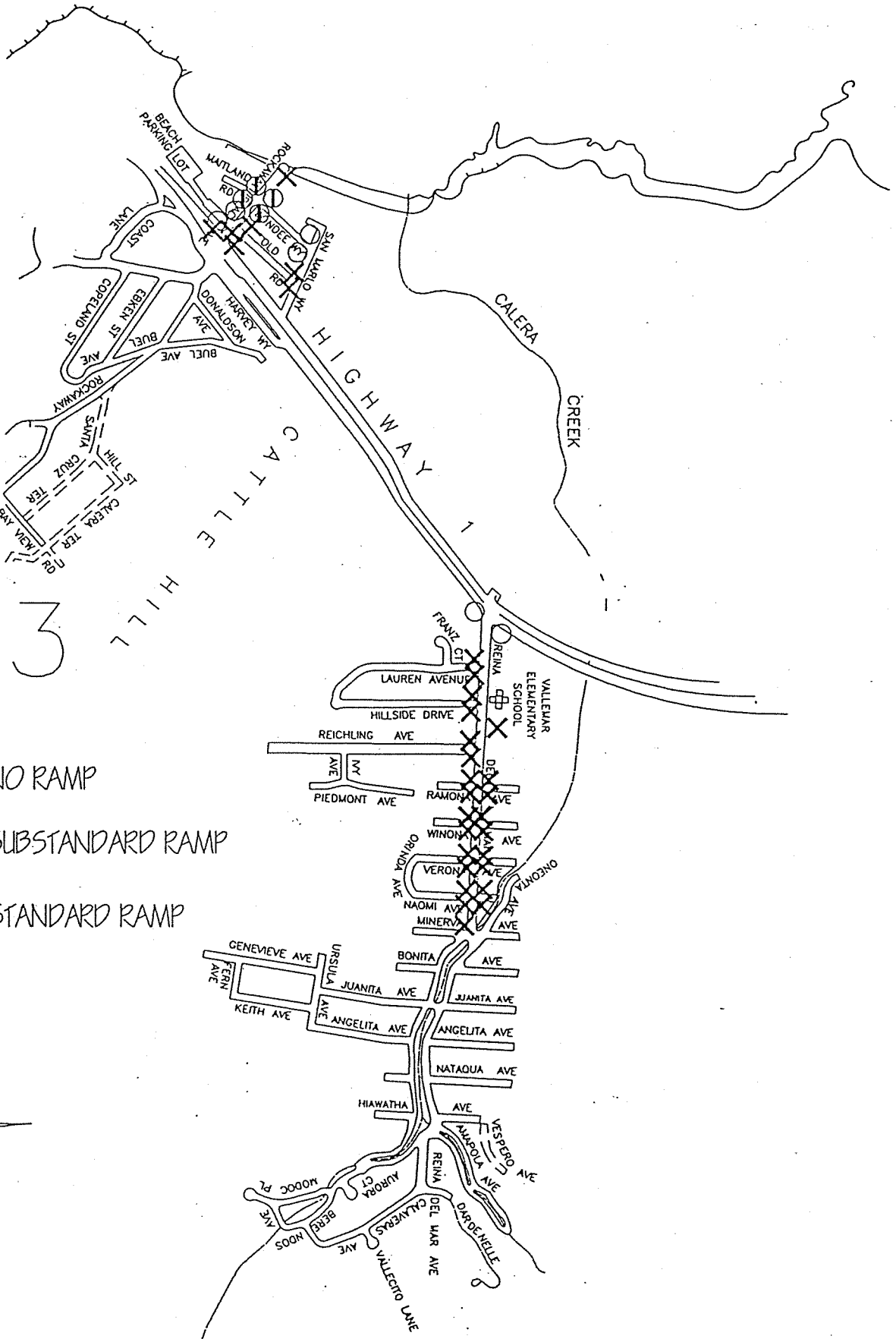
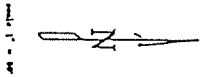
NO RAMP

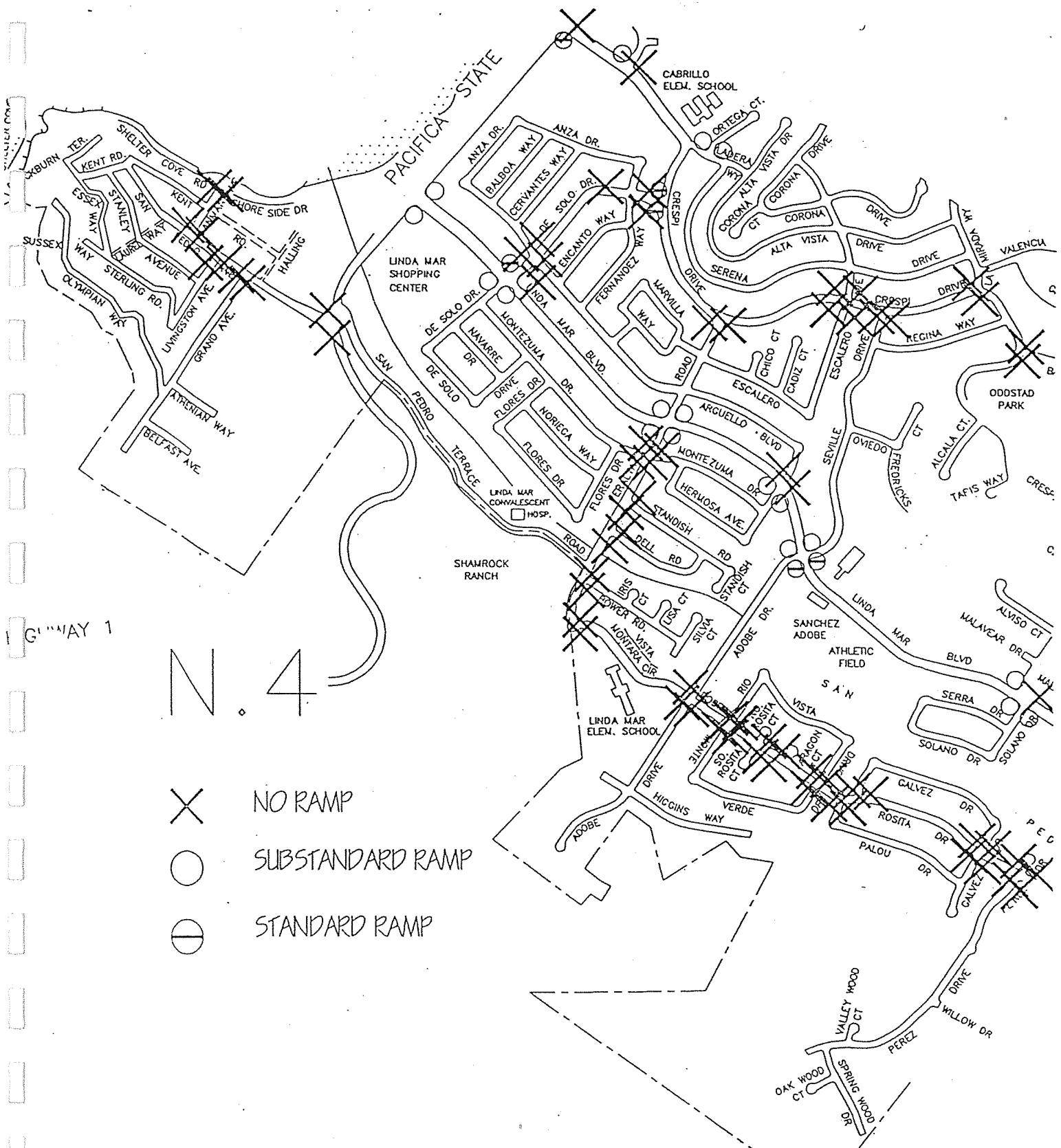


SUBSTANDARD RAMP



STANDARD RAMP

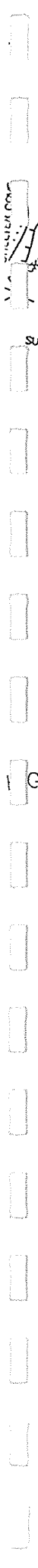




Highway 1

N. 4

- X NO RAMP
- SUBSTANDARD RAMP
- ⊖ STANDARD RAMP



N.5



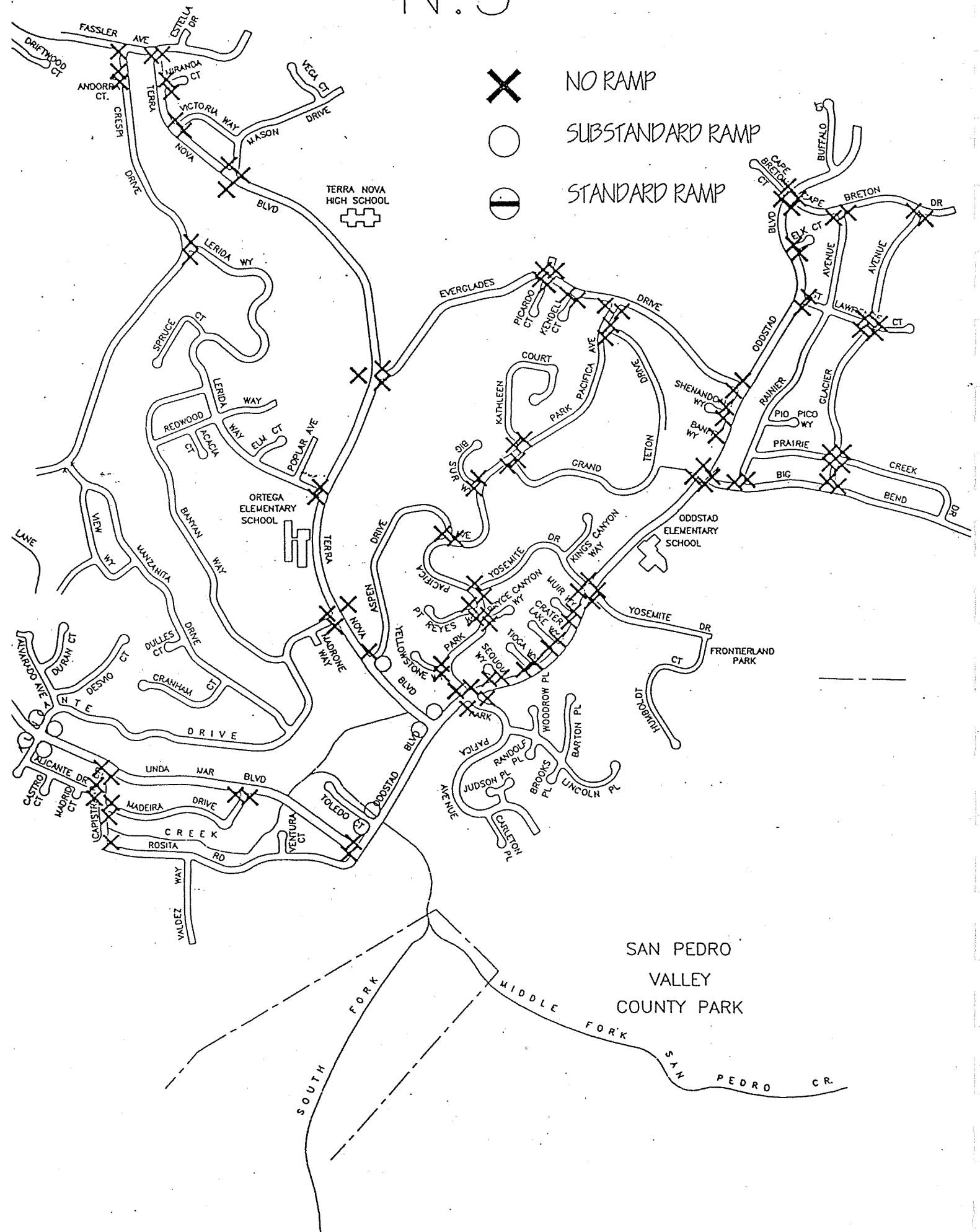
NO RAMP



SUBSTANDARD RAMP

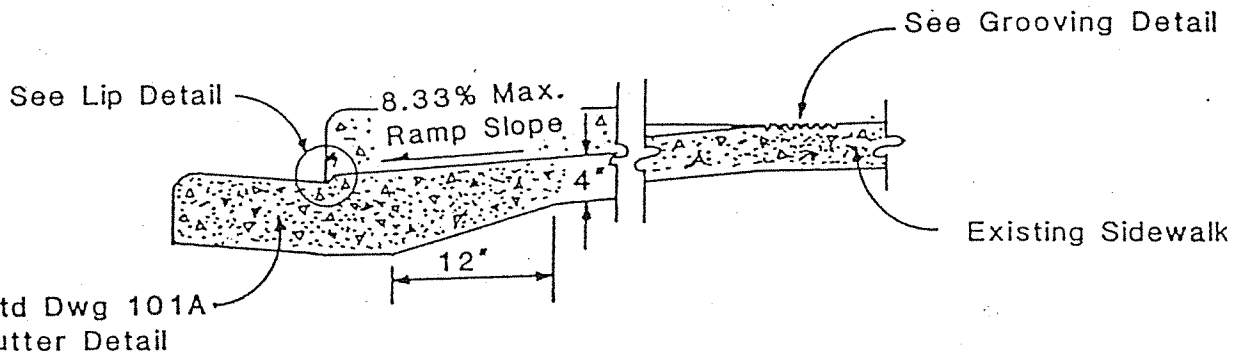
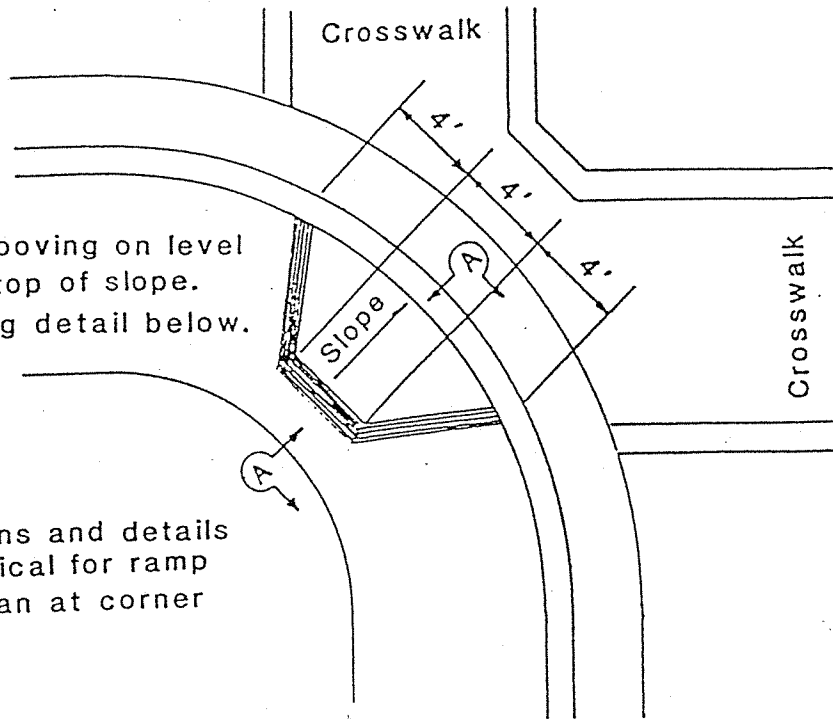


STANDARD RAMP

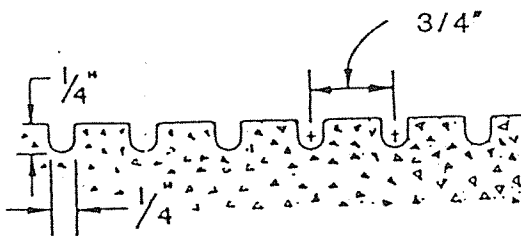


12" wide grooving on level walk at top of slope.
See grooving detail below.

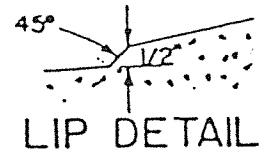
Note: Dimensions and details also typical for ramp other than at corner



(A) RAMP SECTION



GROOVING DETAIL



LIP DETAIL

CITY OF
PACIFICA
C.D.& S.
ENGINEERING DIV.

STANDARD
HANDICAPPED
ACCESS RAMP

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TECHNICAL STANDARDS

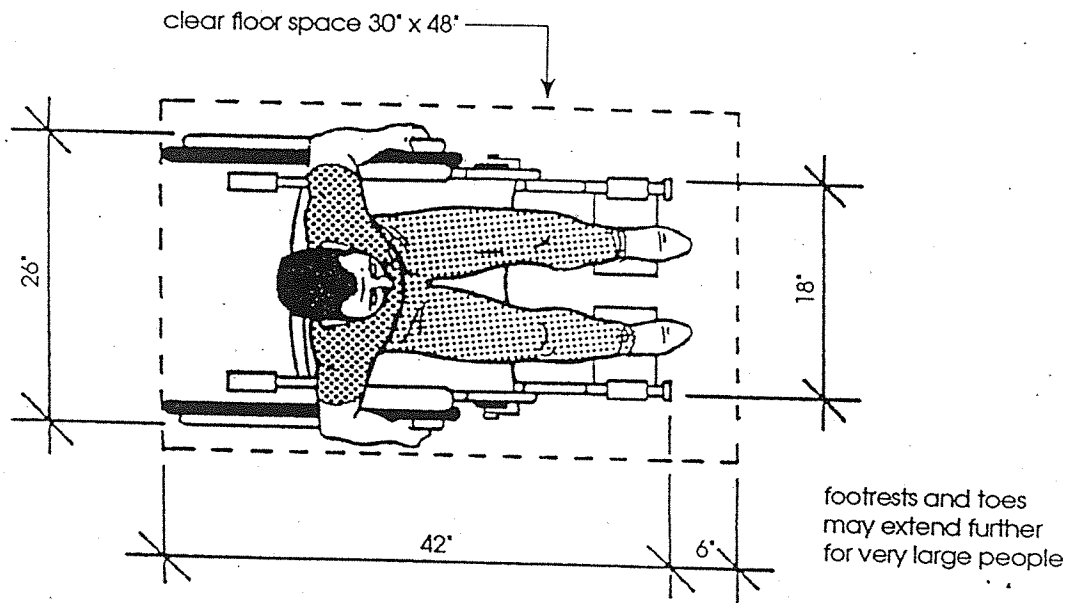
**TECHNICAL STANDARDS
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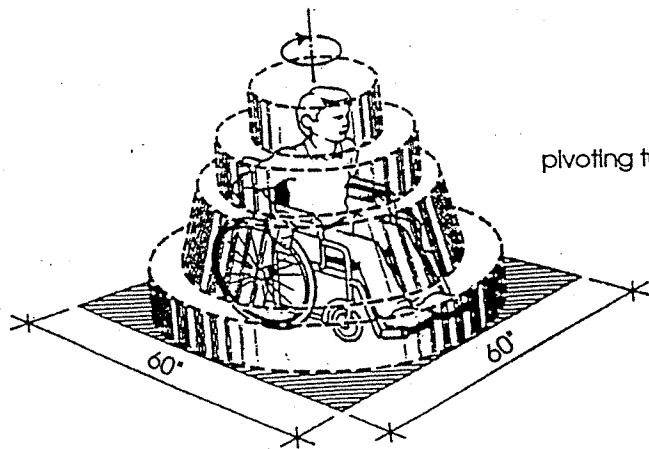
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SPACE ALLOWANCES AND REACH RANGES

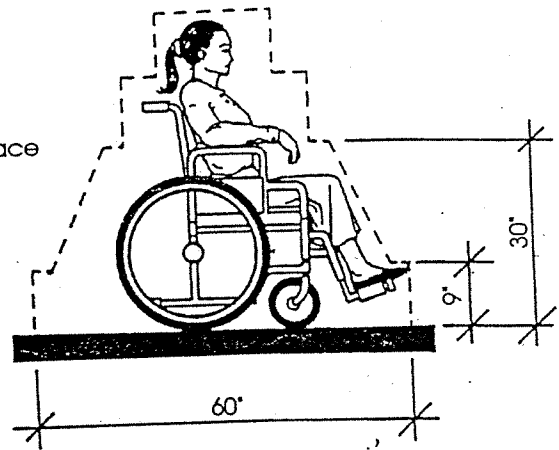
The minimum clear floor space for the average seated adult in a wheelchair to be 30 inches by 48 inches. The space allowed for pivoting wheelchairs movement is 60 inches by 60 inches minimum. When the user must reach over an obstruction he may be able to reach with a parallel clear floor space of with a perpendicular space position for forward reach.



Space Allowances and Approximate Dimensions of Adult-Sized Wheelchairs



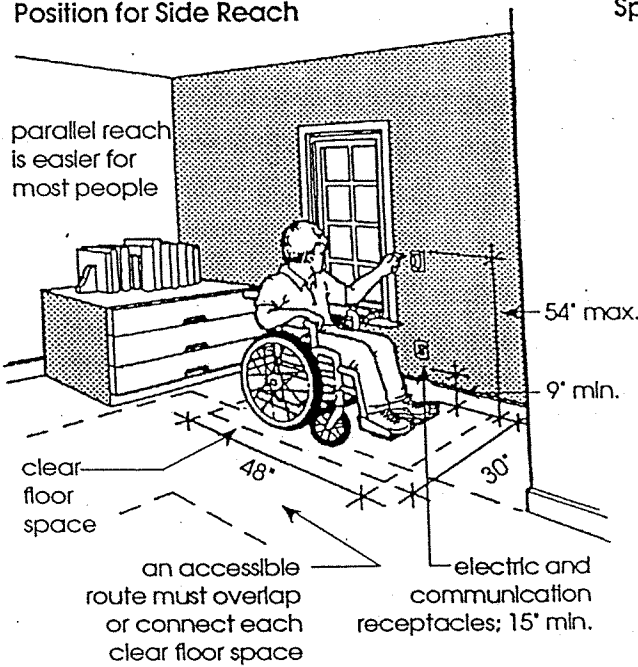
pivoting turn space



Space Allowances for Movement of Wheelchairs

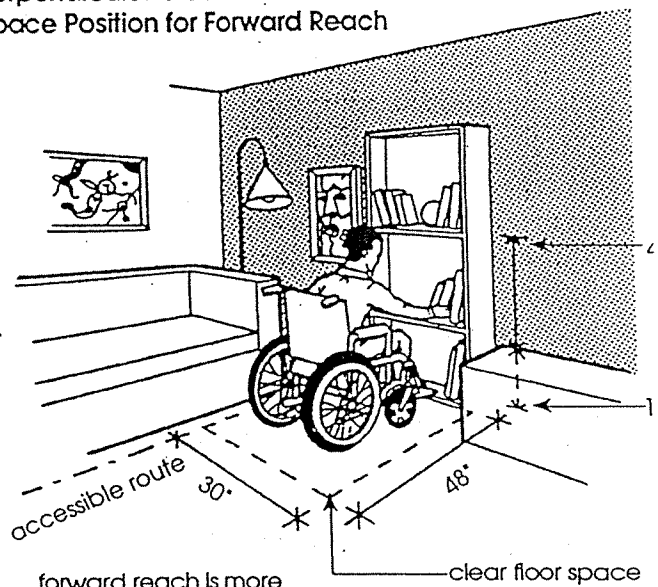
Parallel Clear Floor Space Position for Side Reach

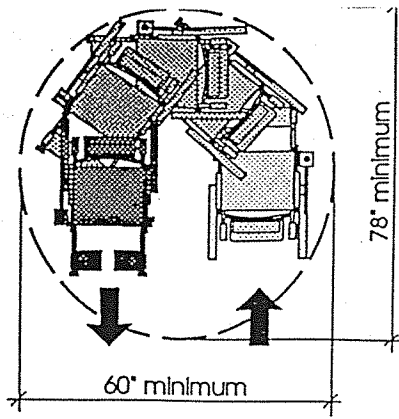
parallel reach is easier for most people



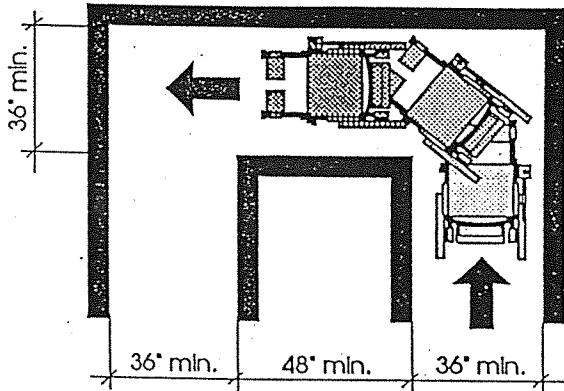
Perpendicular Clear Floor Space Position for Forward Reach

forward reach is more difficult than side reach and is impossible for some people

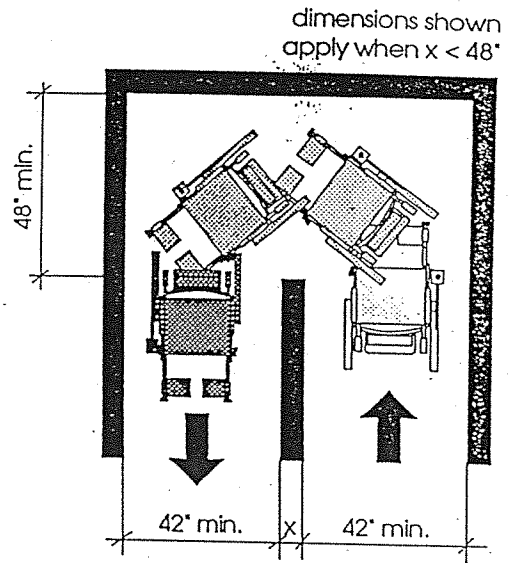




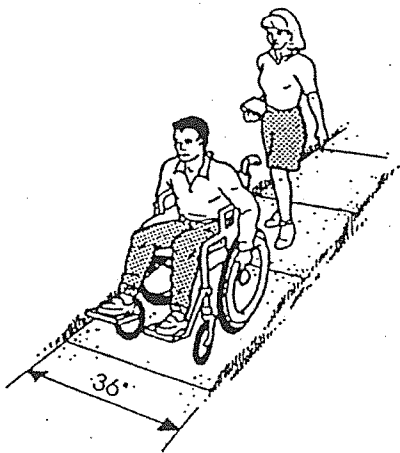
Space Needed for Smooth U-Turn in a Wheelchair



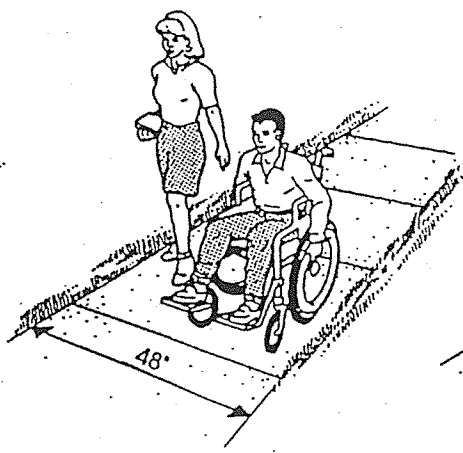
90 Degree Turn



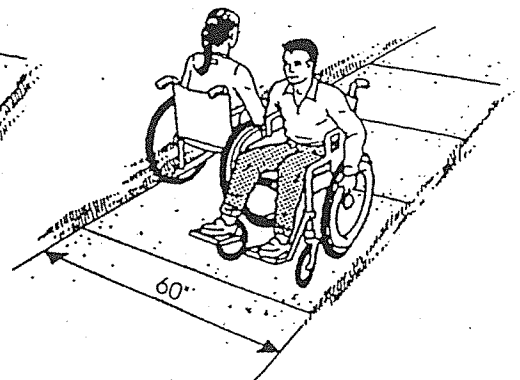
Turns Around an Obstruction



One-way Passage



Wheelchair and Walking Passage



Two-way Wheelchair Passage

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INTERNATIONAL SYMBOL OF ACCESSIBILITY

International symbol of accessibility is used to identify accessible parking spaces. It is the only element reserved for the exclusive use of people with disabilities and it is designed to facilitate use by disabled persons but can also be used by the general public, such as telephones and toilet rooms.

This symbol of accessibility is also to be displayed at a passenger loading zones, accessible entrances, and accessible toilet and bathing facilities.



signs which combine pictograms/ graphics with words are easier to interpret since the message is reinforced in two distinct modes

Examples of Access Symbol Used in Signage

Research data analysis suggests minimum dimensions for the access symbol at various viewing distances. The pictogram symbol size appropriate for any situation may vary depending on the viewing conditions at a particular location.

<u>Size</u>	<u>Location</u>	<u>Viewing Distance</u>
2 1/2 inches	Interior	Up to 30 feet
4 inches	Interior	Greater than 30 feet
4 inches	Exterior	Up to 60 feet
8 inches	Exterior	Greater than 60 feet

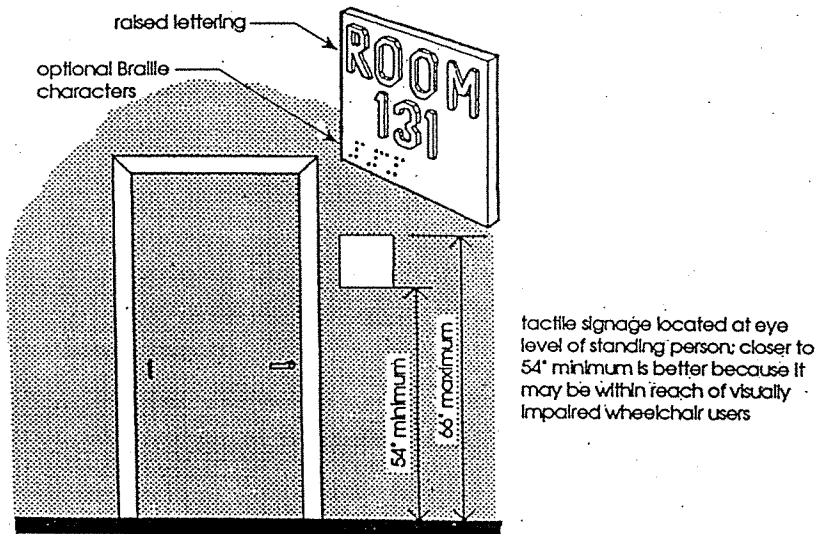
SIGNS

Letters and numbers on signs must have a width to height ratio between 3:5 and 1:1 and a stroke width to height ratio between 1:5 and 1:10.

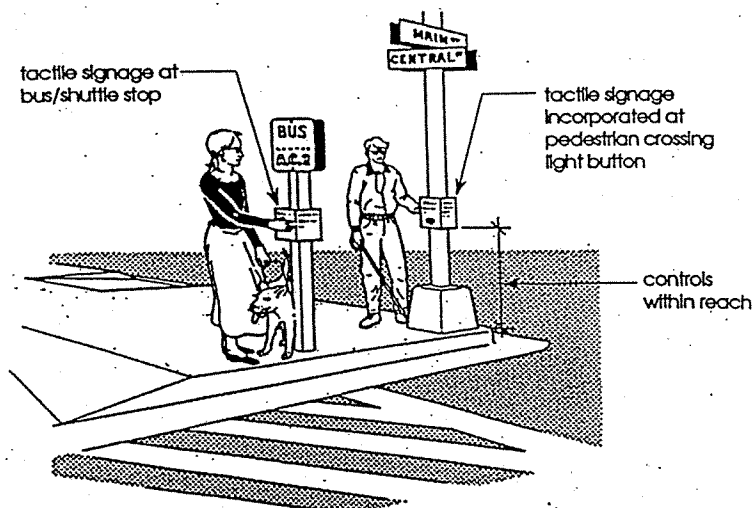
Size and type of characters designed to be read tactilely must be at least 5/8 inches high but no larger than two inches.

Raised characters and symbols shall be raised 1/32 inch minimum to allow people to decipher information tactilely. The characters or symbols must contrast with the background—either dark characters on a light background, or light characters on a dark background.

Braille characters are sometimes included in signage systems. They should be incorporated in a consistent location on each sign throughout the signage system and to the left of standard characters.



Sign Located to Latch Side of Door



Tactile Signage at Crosswalk and Bus Stop

PARKING LOT

Special parking and passenger loading areas are earmarked for use by disabled persons. These designated parking spaces must be the ones closest to the entrance since many people with disabilities lack the strength to travel long distances.

An adequate number of designated parking stalls should be provided for disabled people. (1-25=1) (25-50=2) (50-75=3).

It is recommended that a sign with a minimum size of 70 square inches designates each reserved space. There should be an accessible route for the wheelchair to be able to get to the designated space avoiding to go behind any cars. The space should be outlined or painted in blue with the international symbol of accessibility. Every designated space requires an adjacent aisle which should be on the passenger side.

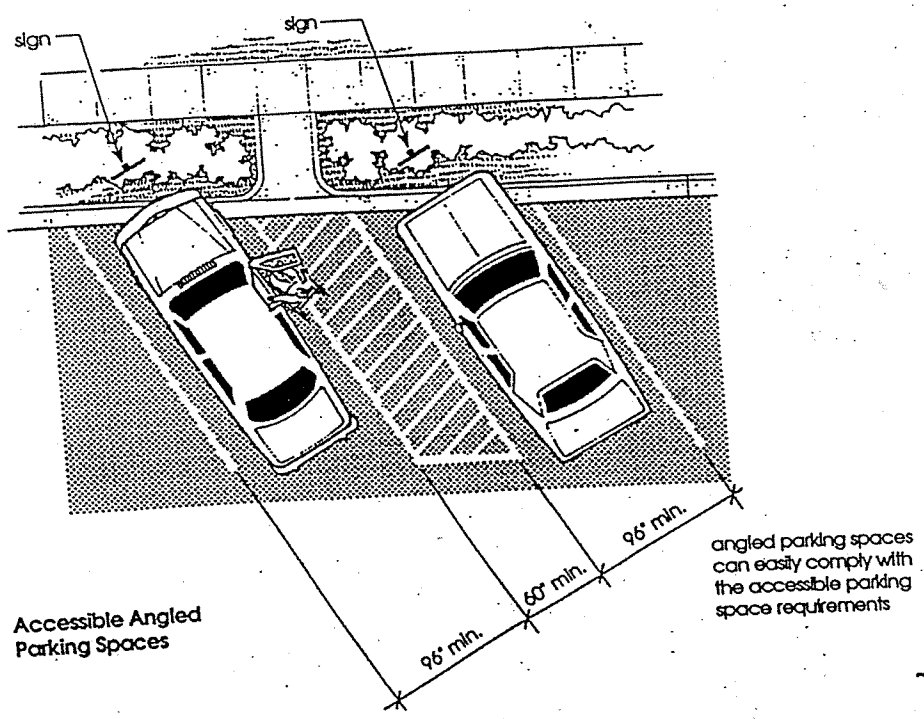
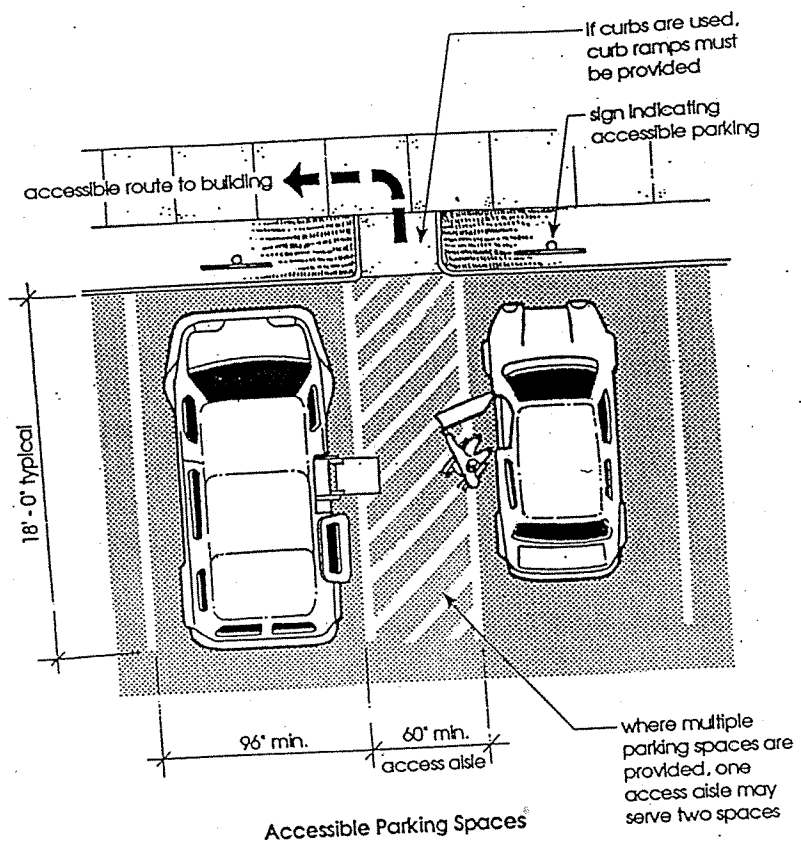
The standard measurement for the space including the vehicles is 9' wide by 18' long, plus 60" for the aisle.

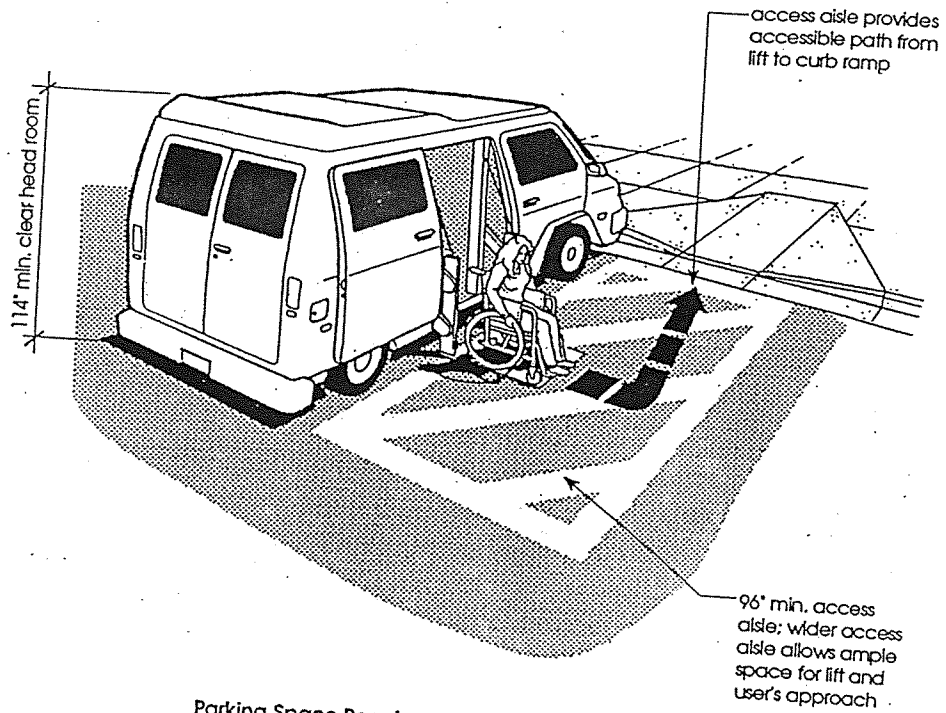
It is also important to have signs designating accessible stalls for Vans. This measurement only varies on the width of the aisle which is 96" minimum.

sign must be mounted so that it is seen from the driver's seat and located so that a car parked in the space does not obstruct the view of the signage

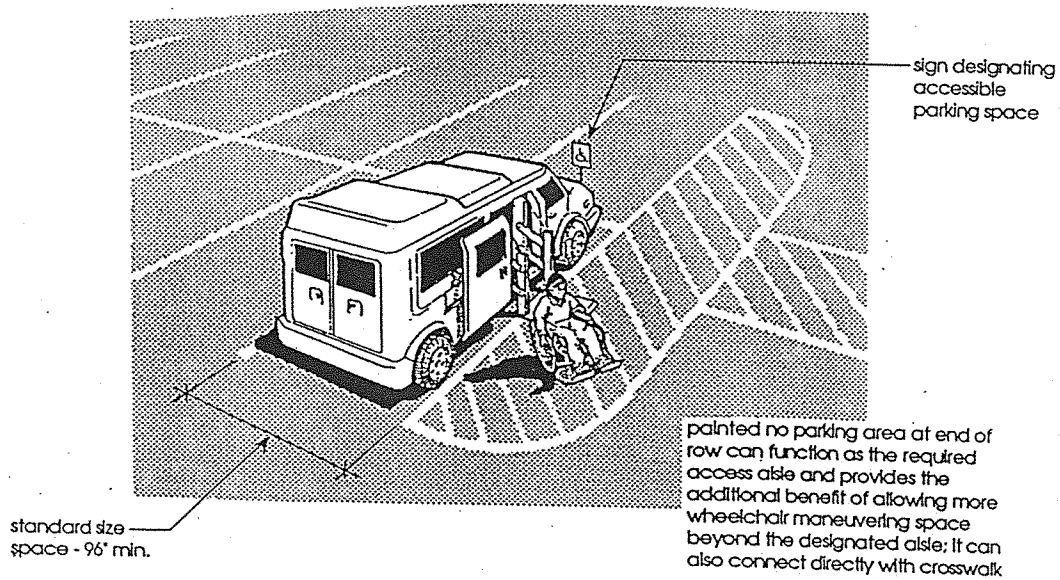


If mounted where people will walk beneath, the bottom edge must be above 7 1/2 feet



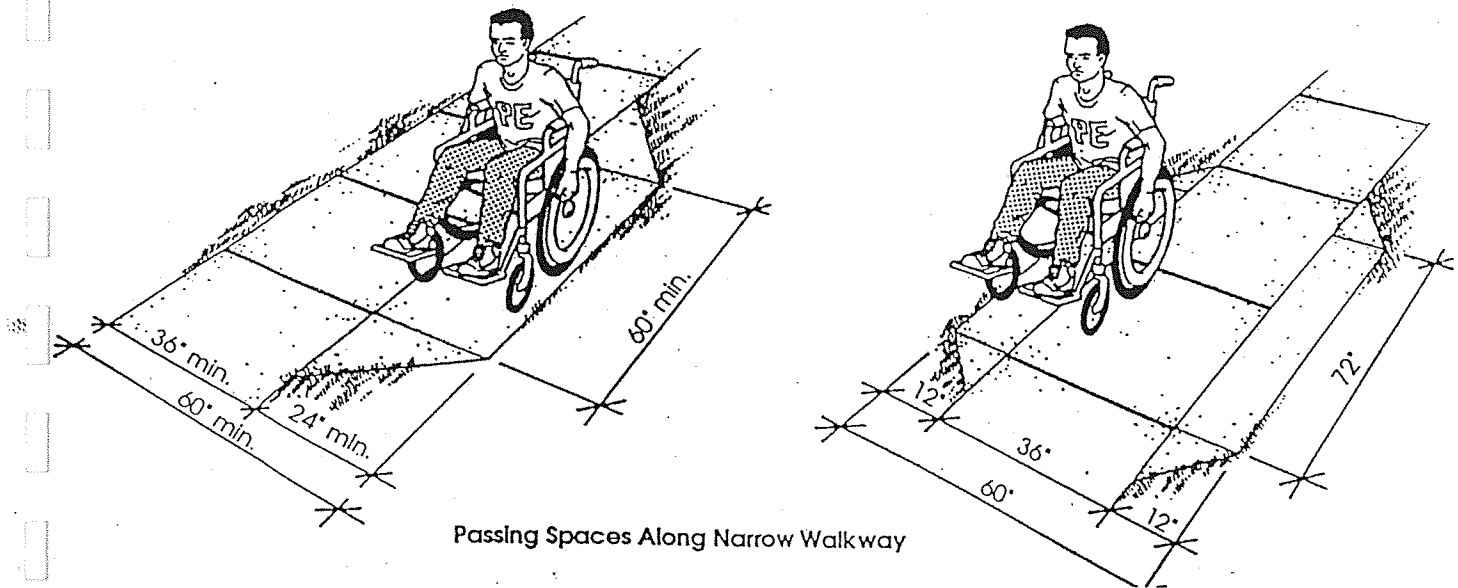


Parking Space Requirements for Side Lift Van



ACCESSIBLE ROUTE

An accessible route is defined as " a continuous unobstructed path connecting all elements and spaces of a building or facility". This path is one that can be negotiated safely by anyone including persons with a broad range of disabilities. In any given facility at least one of the routes must meet the criteria for an accessible route and adjoin the clear floor space at accessible elements and features. Interior accessible routes may include parking access aisles, passenger drop-off areas, curb ramps, walks and clear floor space at entries.

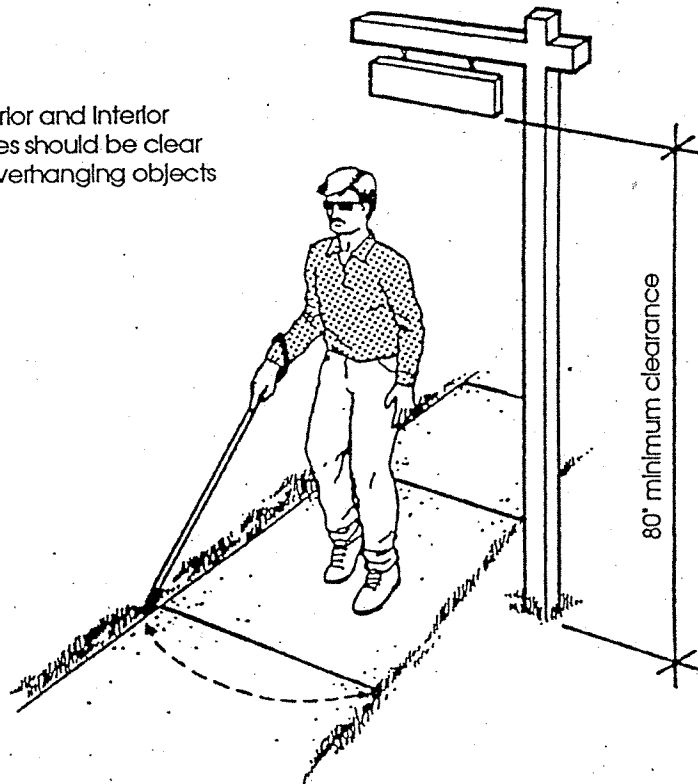


passing spaces
facilitate two-
way traffic

angled approach
to turnout makes
maneuvering easier

A minimum of 80" of vertical clearance must also be provided on an accessible route.

exterior and interior routes should be clear of overhanging objects



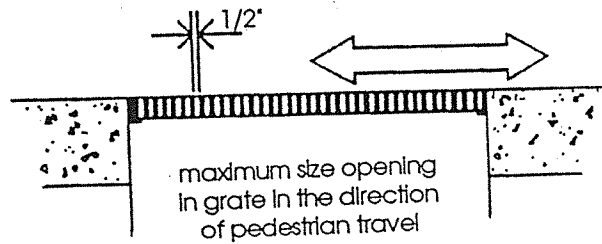
Overhanging Objects at Accessible Route

GROUND AND FLOOR SURFACES

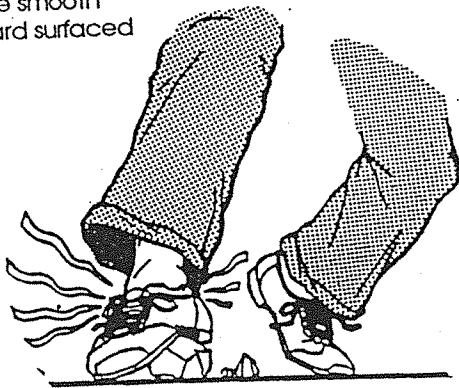
The ground and floor surfaces must be stable, firm and slip resistant. Broken and/or uneven paths are not acceptable.

Surface treatment is critical to the safety and ease of ambulation of all people. Ground and floor surfaces must be clear of obstructions which creates hazards to persons using canes, crutches, walkers, and wheelchairs.

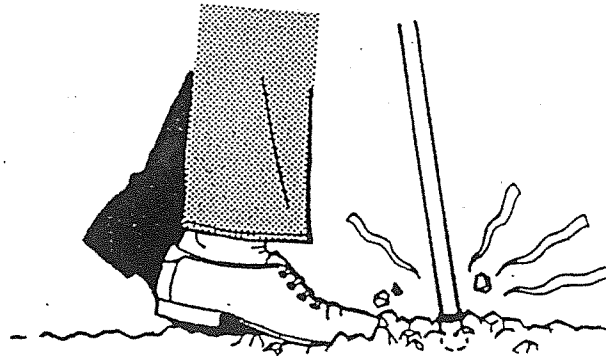
To minimize the hazards and difficulties when minor level changes occur it is required that changes in level up to 1/4" may be vertical and without edge treatment. but that ground and floor surface level changes between 1/4" and 1/2" shall be leveled with a slope no greater than 1:2.



accessible routes must be smooth and hard surfaced

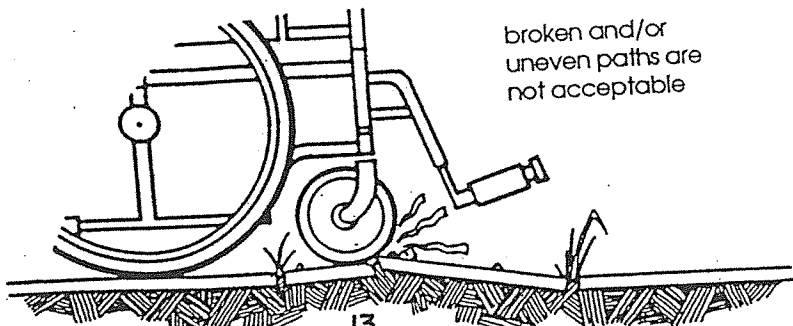


loose gravel and sand are not acceptable



Ground and Floor Surfaces

broken and/or uneven paths are not acceptable



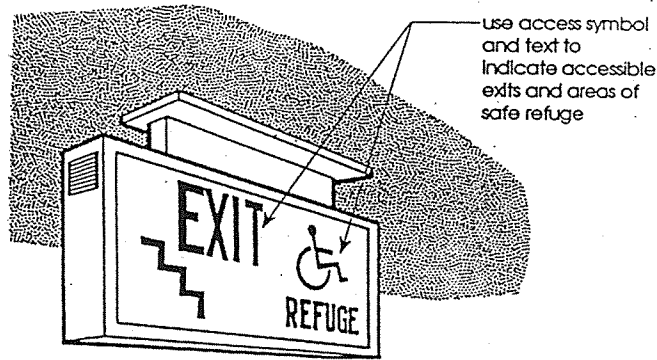
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ACCESSIBLE ROUTE AS A MEANS OF EGRESS

An accessible means of egress provides a wheelchair accessible path of travel to an exit, exit enclosure, or an area of safe refuge. The minimum requirements include path width, passing spaces, appropriated head room, proper surface textures, minimum slope, minimal changes in slope, and accessible doors.

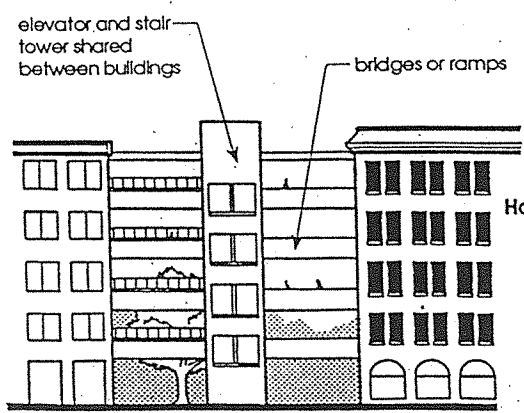
Some of the important issues to have in mind when planning for safe egress are the arrangement and number of required exits, the distances of travel to an exit, the number of people who can safely be discharged through an exit, good illumination of the egress path, and signage to indicate the proper route as well as to point out avoidable hazards.

When possible it is best if emergency signage includes information for wheelchair user and others who can not use stairs. Signage should indicate the route to follow, as well as the actual exit doors.



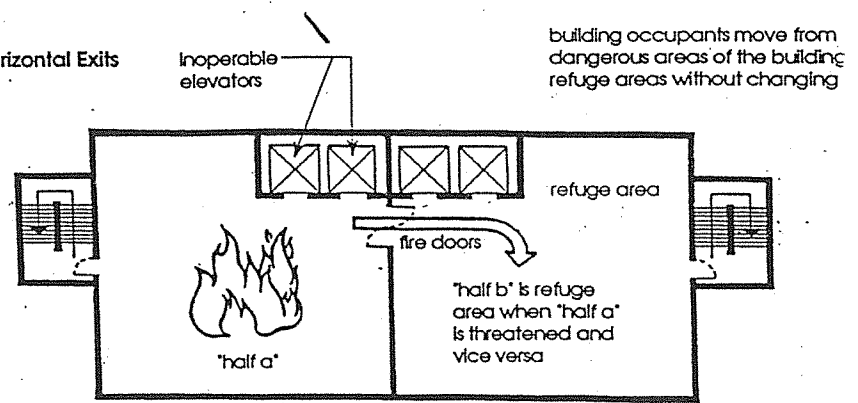
Refuge and/or Exit Shared Between Buildings

Exit/Refuge Sign with Access Symbol



Horizontal Exits

Refuge Within Building



elevation

plan

bridge/ramp and shared exterior elevator tower or horizontal or vertical exits from both buildings

Because each "half" of the building is in essence a separate building, each half is an area of refuge for the other. If there is elevator service in each portion of the horizontal exit, the elevator in the non-threatened half may be used for evacuation.

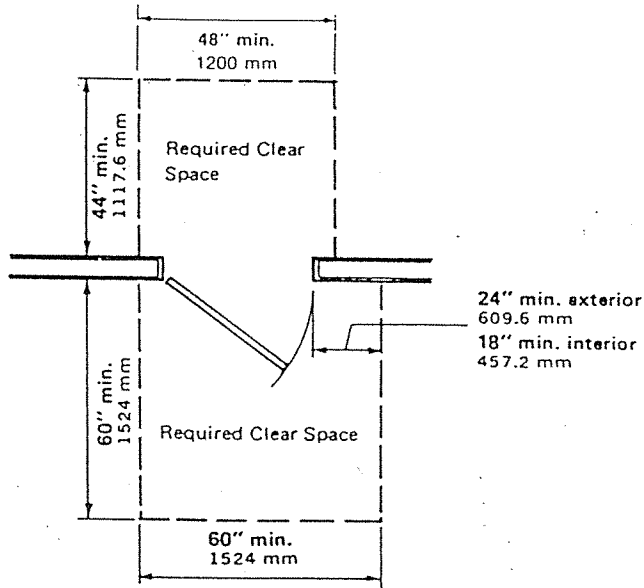
ENTRY WAYS

Applicable primary entrances to buildings are to be accessible to the physically handicapped. Every primary entrance and individual living accommodation shall have a buzzer, bell, chime or equivalent.

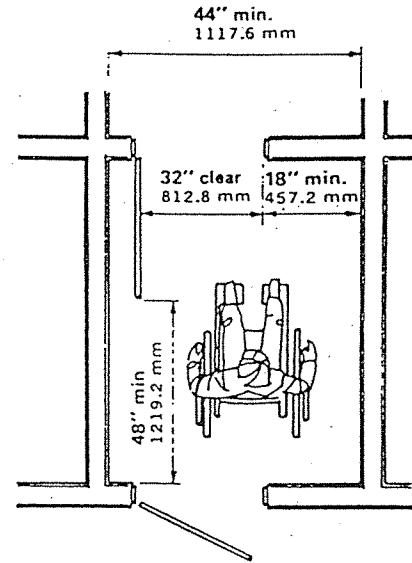
If there are existing doormats they must be adequately anchored to prevent interference with wheelchair traffic. The entrances and exits must be large enough to permit a door at least three feet wide and six feet, eight inches high.

A level clear area is to be created one each side of an exit door. This area should be at least 60 inches in the direction of the door swing.

Space is necessary to allow backing and turning space for a wheelchair to clear the inswinging door.



Level Floor or Landing

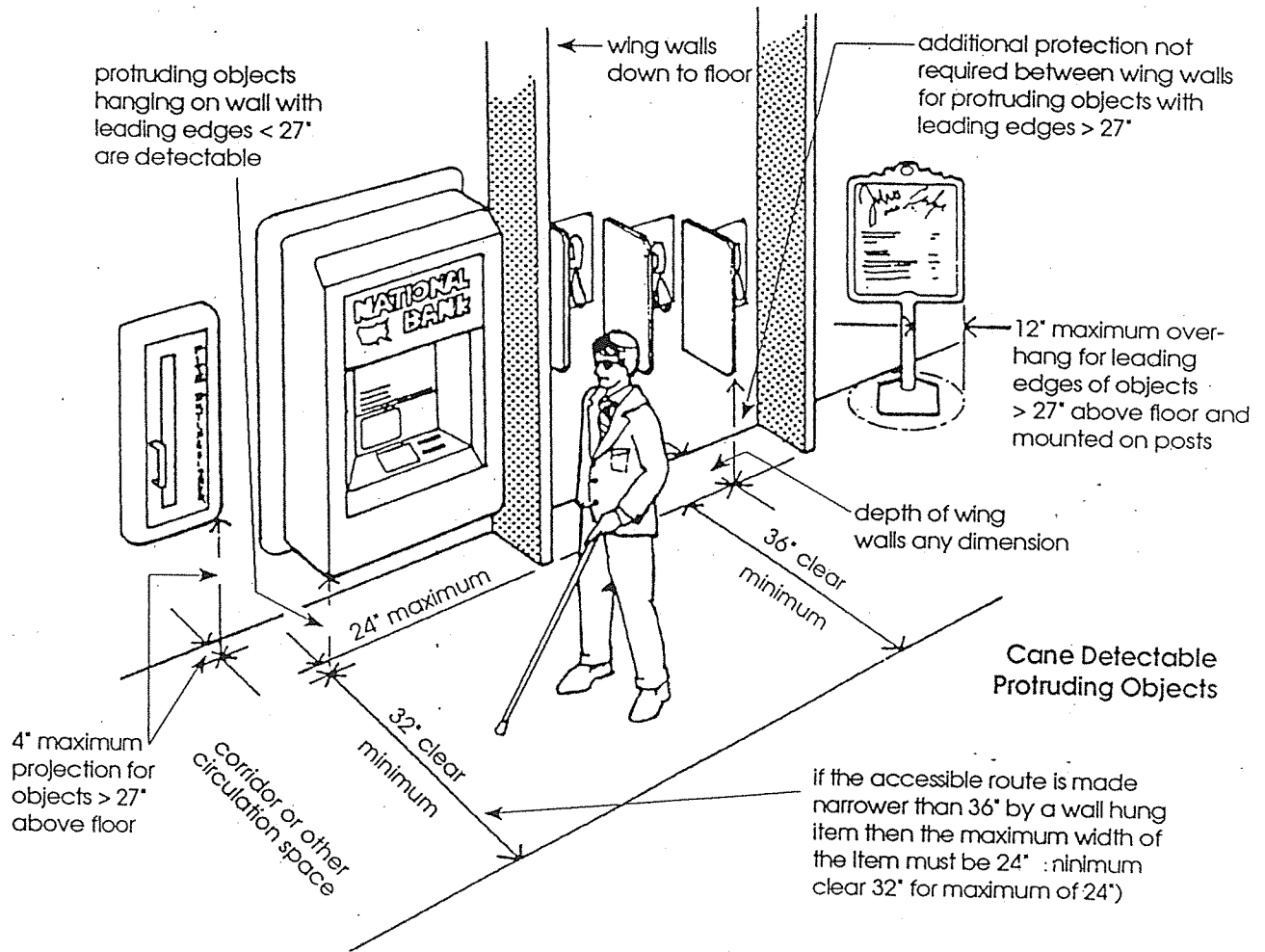


Vestibule

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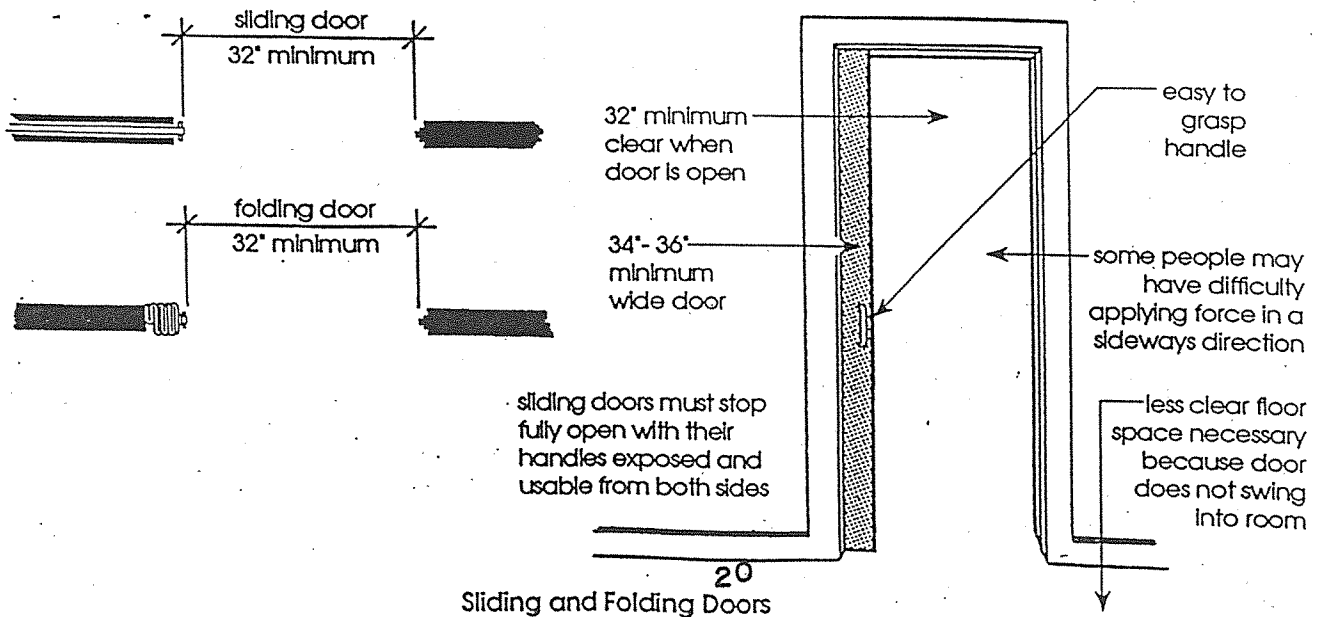
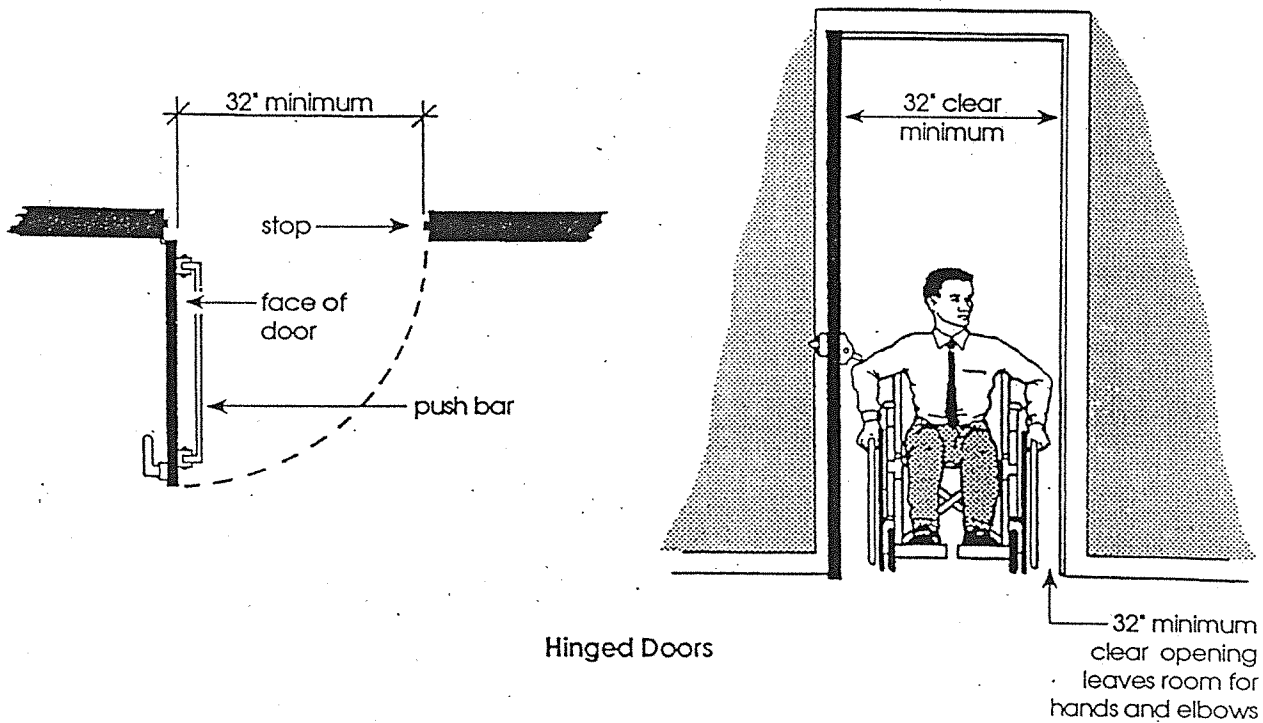
PROTRUDING OBJECTS

Protruding objects present a hazardous problem for people who are not visually impaired people using a cane along a "line" to orient them selves and detect objects in their path.

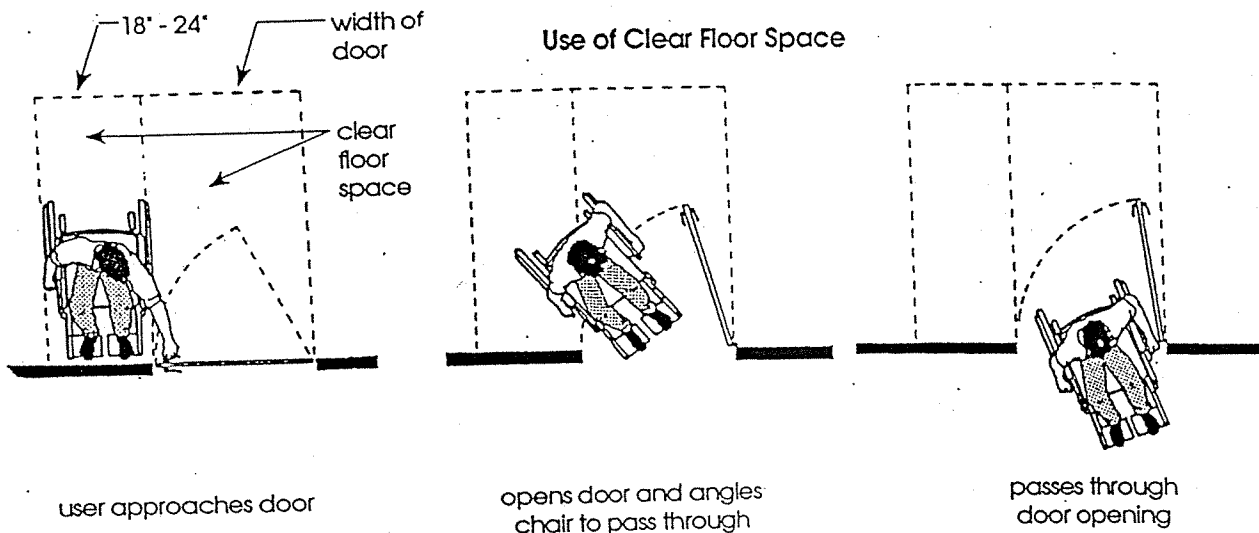


DOORS

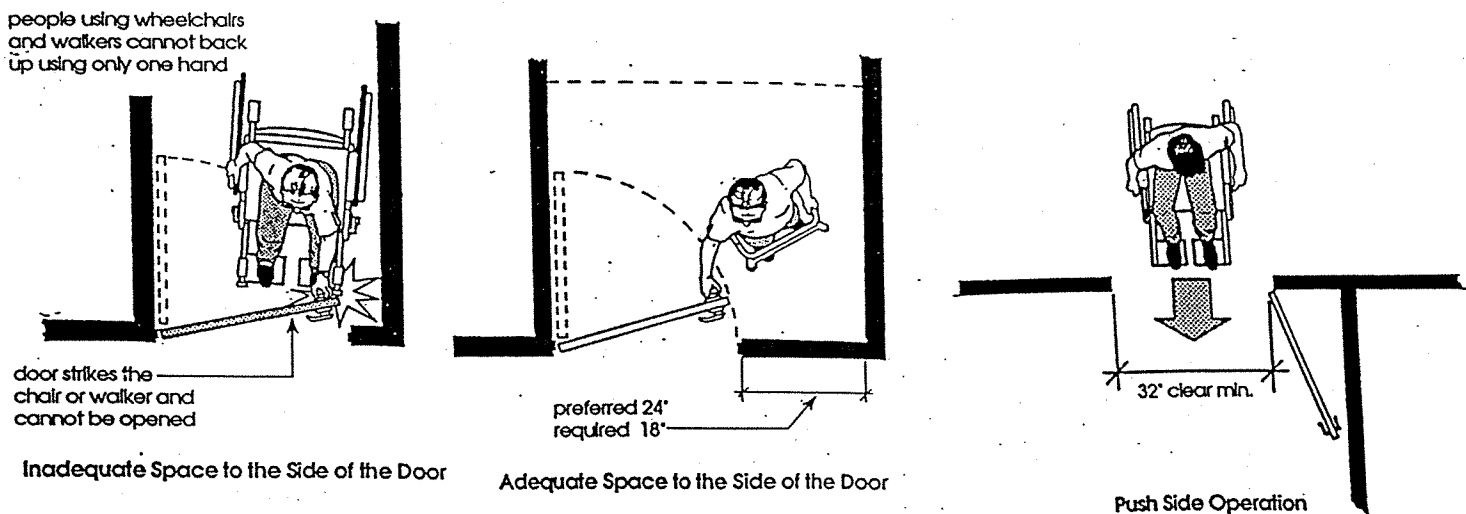
Any door opening must have a minimum clear width of 32 inches which allows passage of most wheelchairs. Adult wheelchairs vary in width from 27 to 32 inches. Walkers which are 32 inches wide can be accommodated in this door width. The 32 inch opening is measured from the stop on the door jamb on the latch side to the face of the door when standing open in the 90 degree position.



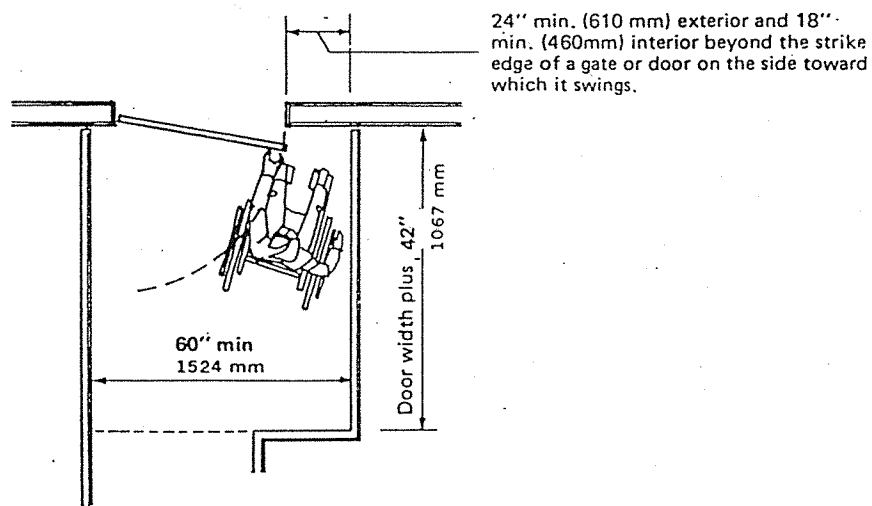
When referring to doorways, the dimensions and allocations of the clear floor space vary with the direction of approach (front-side) and with the face of the wall being approached (push-pull). The clear space to the side of the door on the pull side must be a minimum of 18 inches although 24 inches is preferred.



All complying manually operated doors must have level and clear door space along an accessible route. The clear floor space required is 60 by 60 inch clearance in both sides of the doorway.



When a door swings on a landings, it can not reduce the length of the landing on the direction the ramp. Intermediate landings are to be at least 60 inches, measured in the direction of the ramp. Bottom landings at a change of direction above 30 degrees must be at least 72 inches as measured in the direction of the ramp.



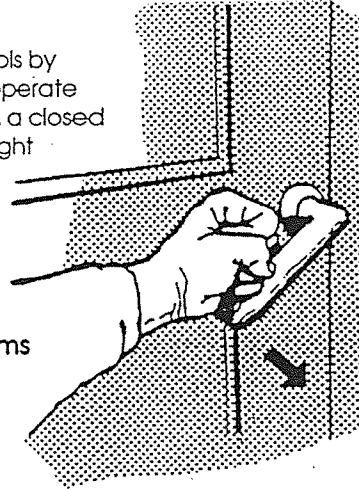
Ramp Landing at doorway

CONTROL AND OPERATING MECHANISM

This mechanisms shall be operable with one hand and shall not require tight grasping, pinching or twisting of the wrist and shall not require an activation force no greater that 5 lb. Basically if a device can be manipulated with a closed fist and a minimum of effort, it probably meets the requirement.

test controls by
trying to operate
them with a closed
fist using light
pressure

Controls and Operating Mechanisms



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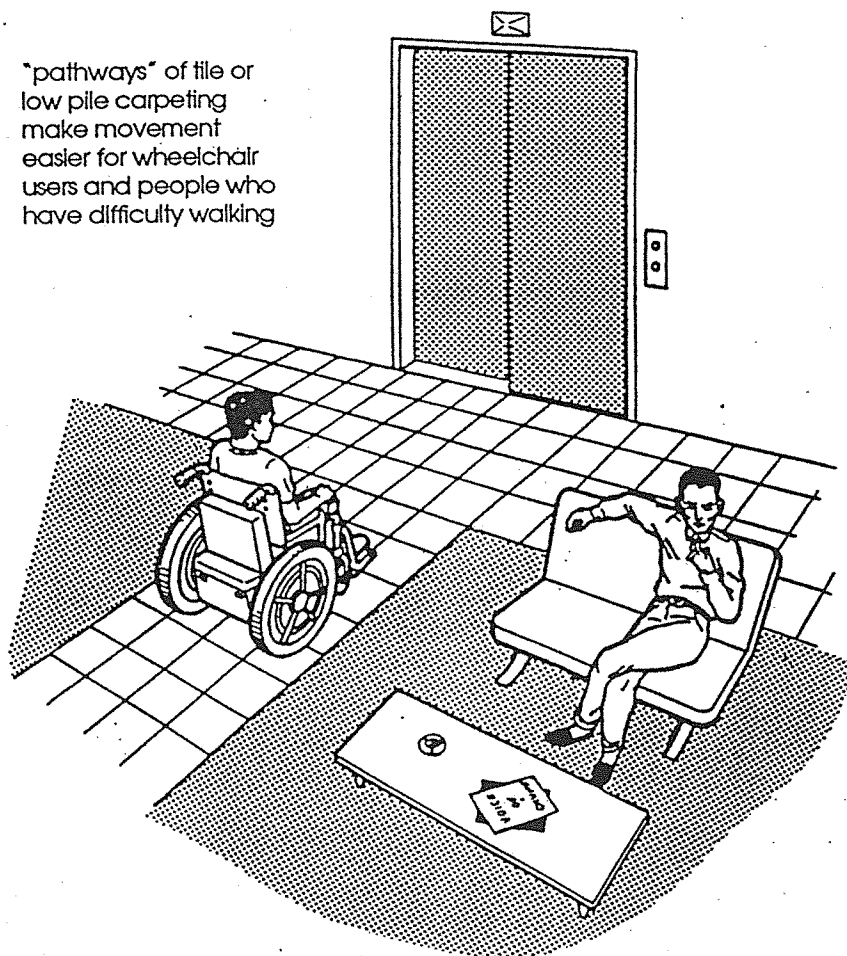
CORRIDORS AND AISLES

Corridors are hallways defined by walls, counters, built-in planters, temporary or removable features such as furniture and shelves.

The required width of the corridors depends on the amount of people occupying the building; it ranges from 36" to 44" wide. The accessible route can narrow to 32" minimum width at a doorway but must increase to provide maneuvering space at doors or to allow turning around an obstruction.

No matter how and where the aisle is created; there must be an emergency exit and the alarm activation device must be 48" above the floor.

If carpeting is used on an accessible route, it must be low pile and firmly fixed to the floor surface, especially along the open edges; if it has thick pile and padding, it should be replaced with a more appropriate surface.



"Pathway" of Tile or Carpeting

INTERIOR ELEVATOR

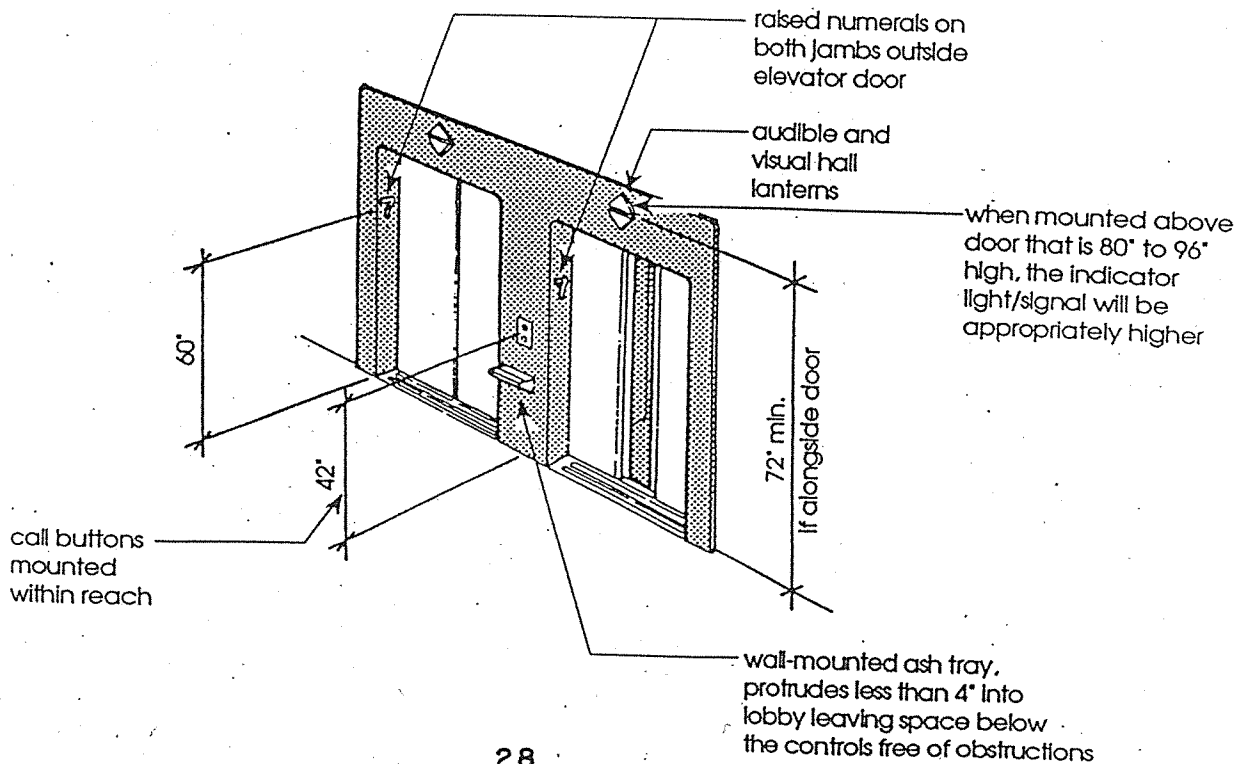
Elevator shafts can be placed inside the building if a common accessible space can be located on each floor, the floors and roof can be remodeled to accommodate the shaft, and the location does not interfere with structural framing of the building.

Call buttons must be mounted vertically and centered at 42 inches above the floor with the up button on top and the down button on the bottom. The call buttons must also have a visual signal to indicate when a call is registered and answered. Objects such as trays which are usually mounted beneath the call button, should not project in to the lobby more than 4".

Hall lanterns must provide a visible and audible signal at each entrance to indicate which car is answering the call. Audible signals shall be visible and mounted with its centerline at least 72 inches above the floor. The visual elements shall be at least 2 1/2 inches in the smallest dimension.

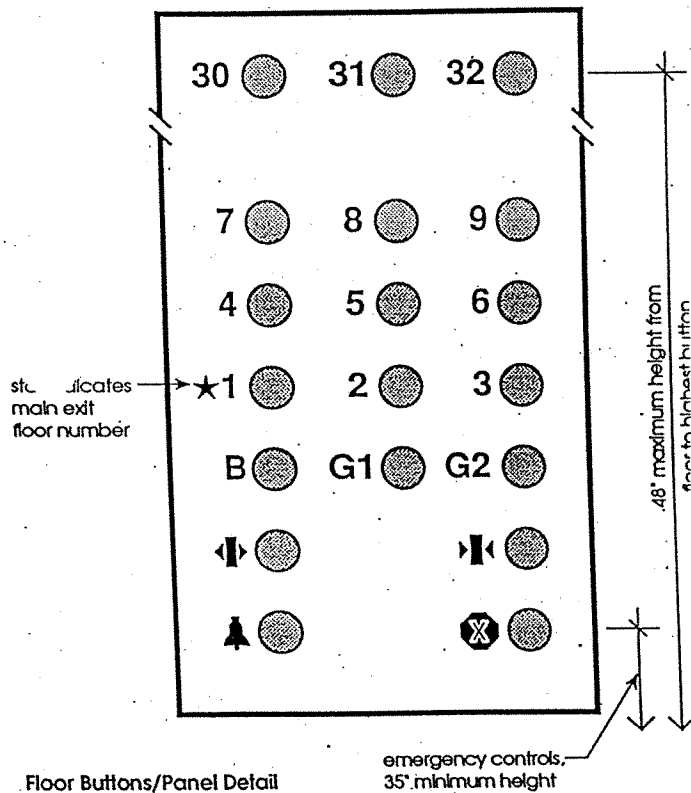
Raised characters on hoistway entrances provide helpful visual and tactile information about the location of the elevator without requiring the passenger to leave the elevator car. The characters must be permanently mounted with centerline 60" from the floor.

Floor plan of elevator cars must allow space for a person using the wheelchair to enter the car, maneuver within reach of the control, and exit from the car. The door opening must be 36 inches minimum, and the distance from car platform sill to the hoistway landing can no be greater than 1 1/4 inches.

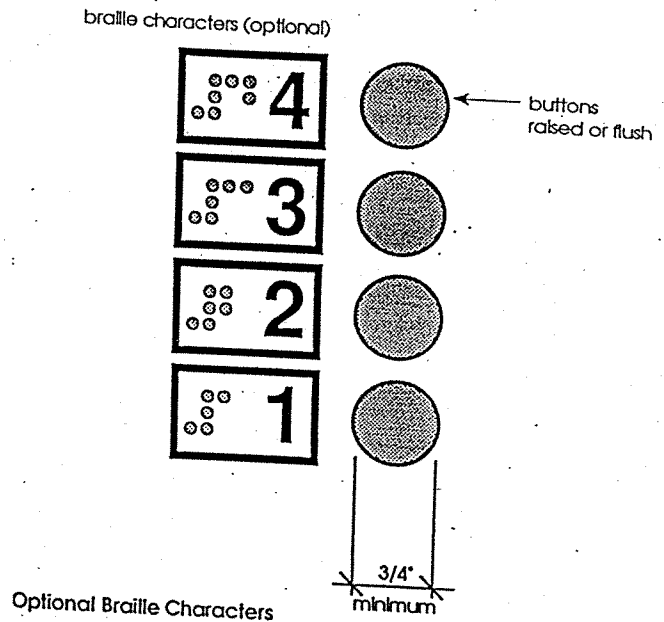


Car controls shall be designed to facilitate easy use for all passengers. Buttons on the control panel shall be at least 3/4 inch in their smallest dimension and shall be raised or flush from the panel. Floor buttons shall be provided with visual indicators which indicate when a call has been registered and extinguish when a call has been answered. All floor buttons shall be from 48" to 54". Emergency controls, including the alarm and the stop, shall be grouped at the bottom of the panel with their centerline no less than 35 inches above the floor.

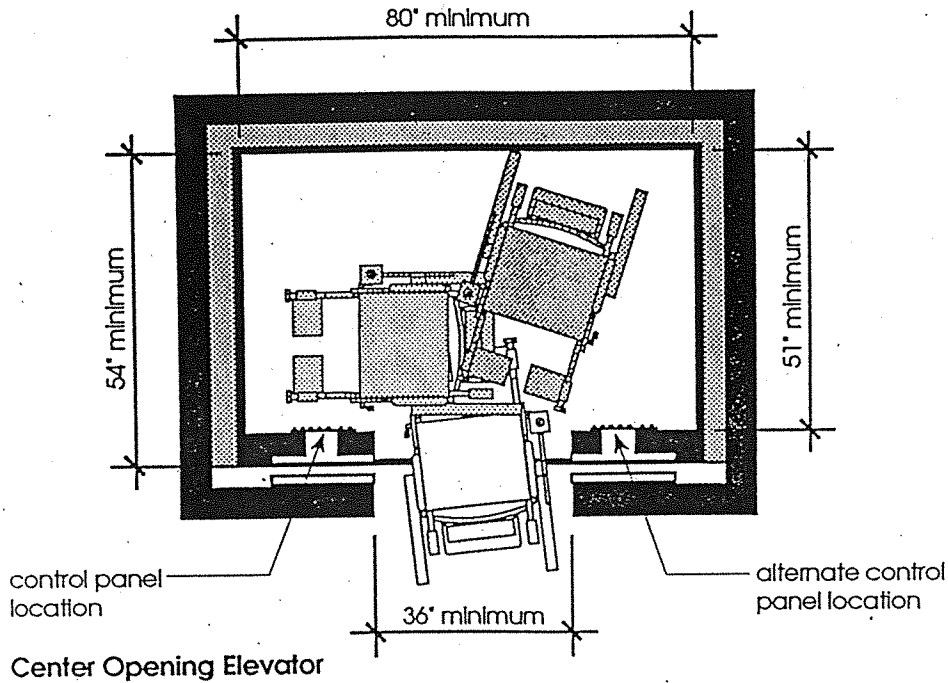
Car Controls



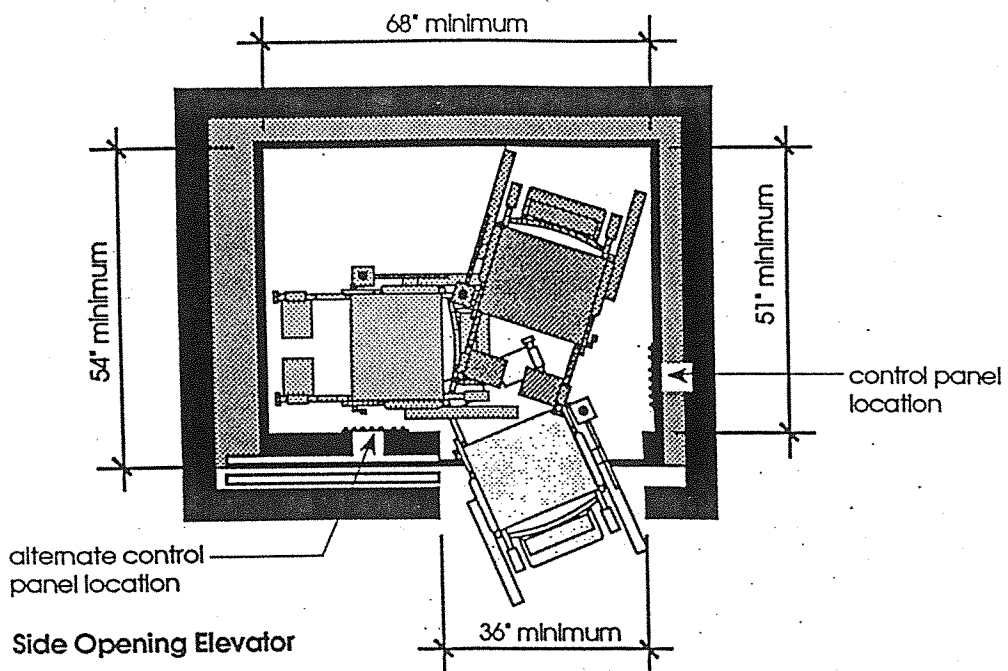
Car Controls



The panels shall be located on the front walls if cars have center opening doors and on the side wall or front wall next to the door if cars have side opening doors.

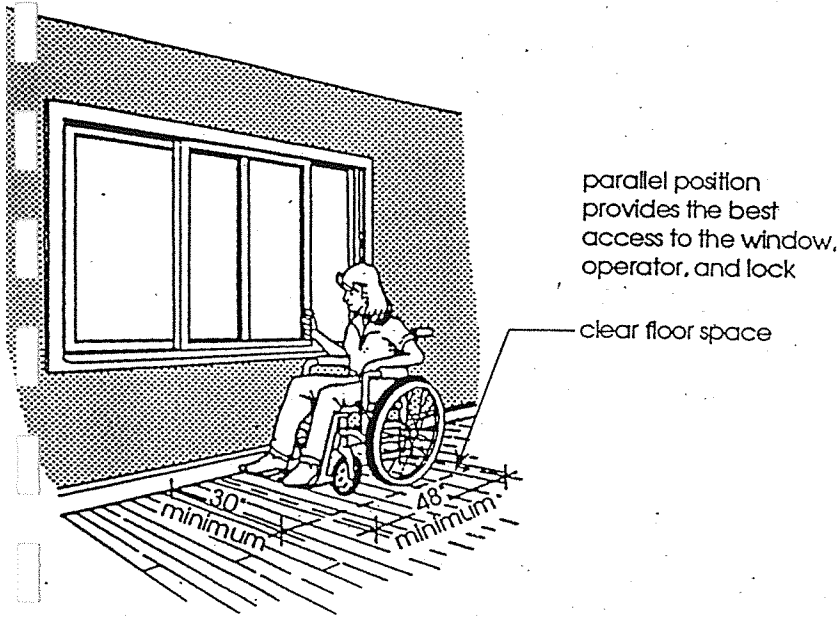


Maneuvering Space/Approach and Use of Control Panel

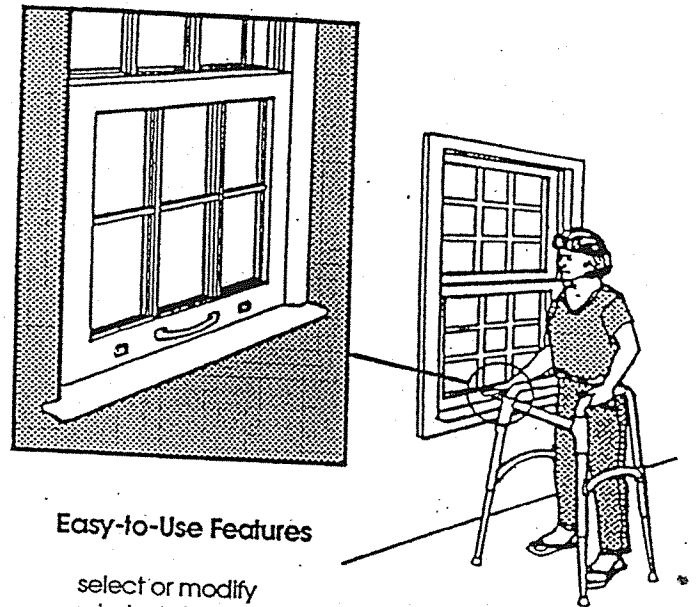


WINDOWS

Windows should be installed on an accessible route with ample clear floor space to allow for a parallel or forward approach. Control, including cranks and locks should be within reach and easy to operate.

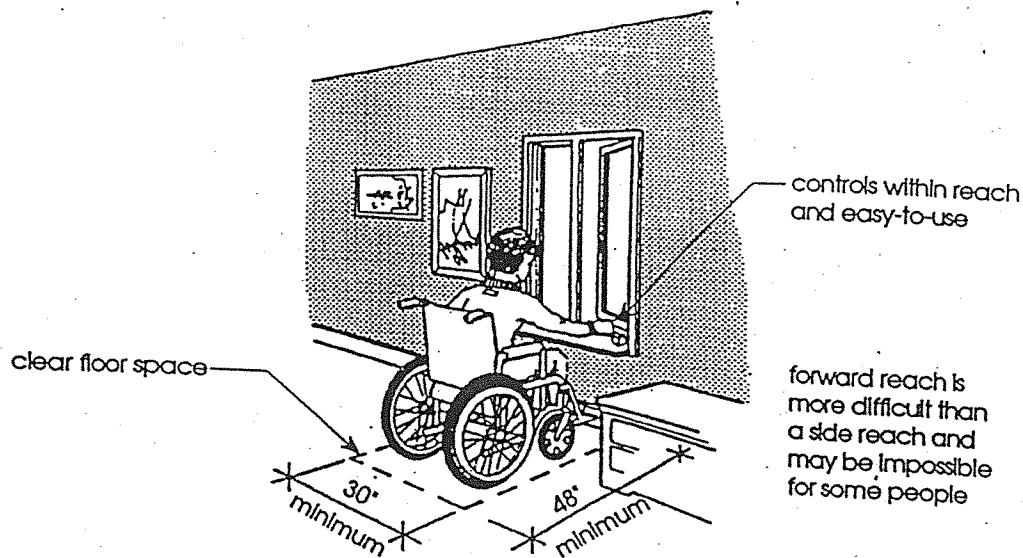


Parallel Approach for Side Reach



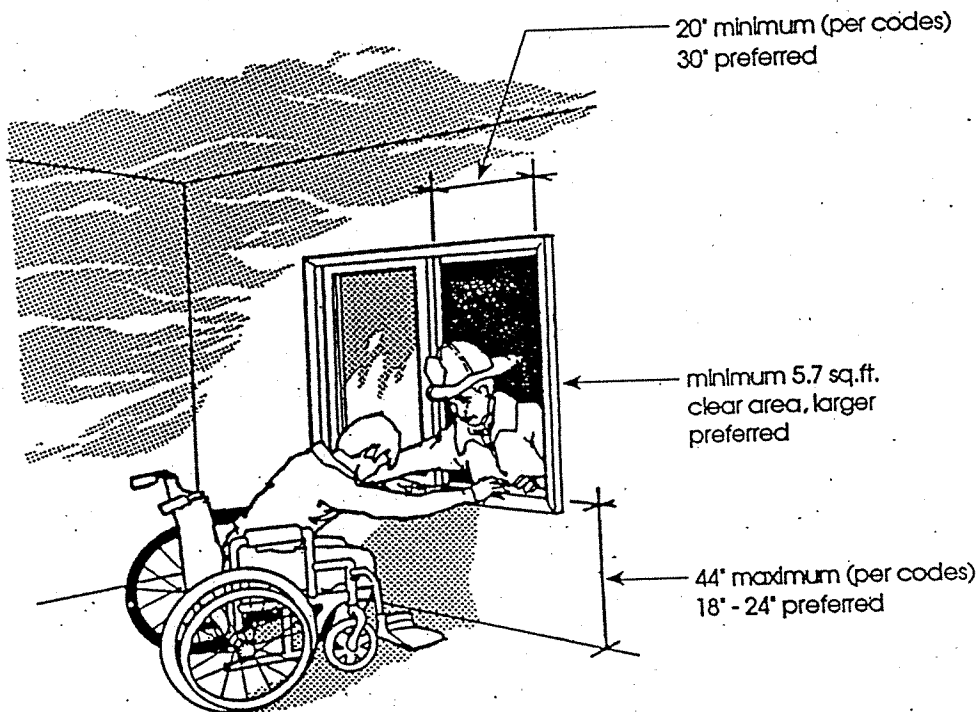
Easy-to-Use Features

select or modify windows to include easy-to-use controls



Perpendicular Approach for Forward Reach

Windows can also observe as a means of escape in the event of an emergency. According to **the life safety code** windows used for fire emergency rescue porpuses should be a minimum or 20 inches wide, 24 inches high, 5.7 square feet inarea, with no loweer edges that 44 inches above the floor. If screens are included, they should be easy to remove.

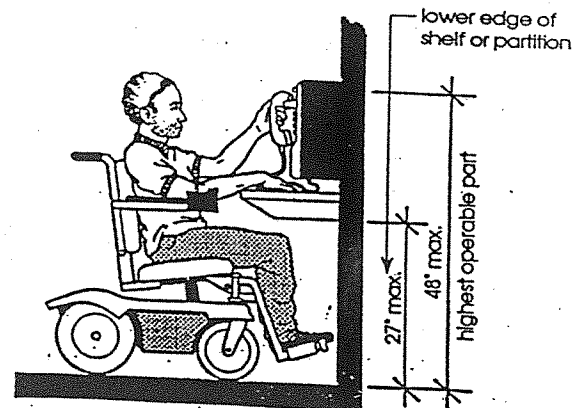
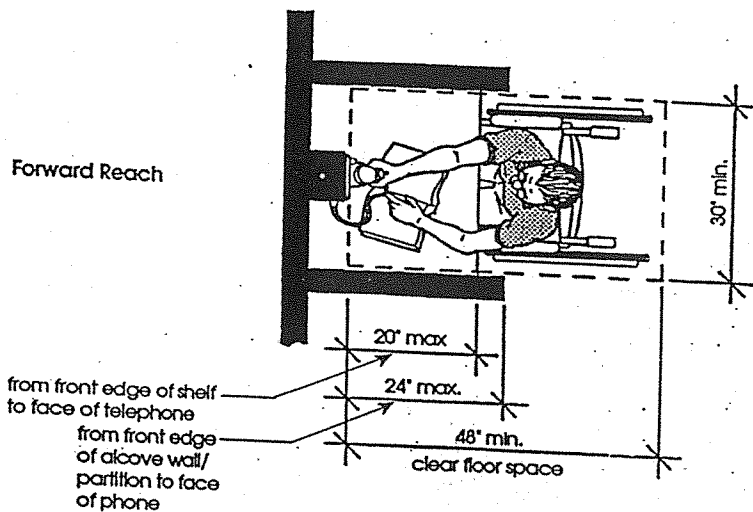
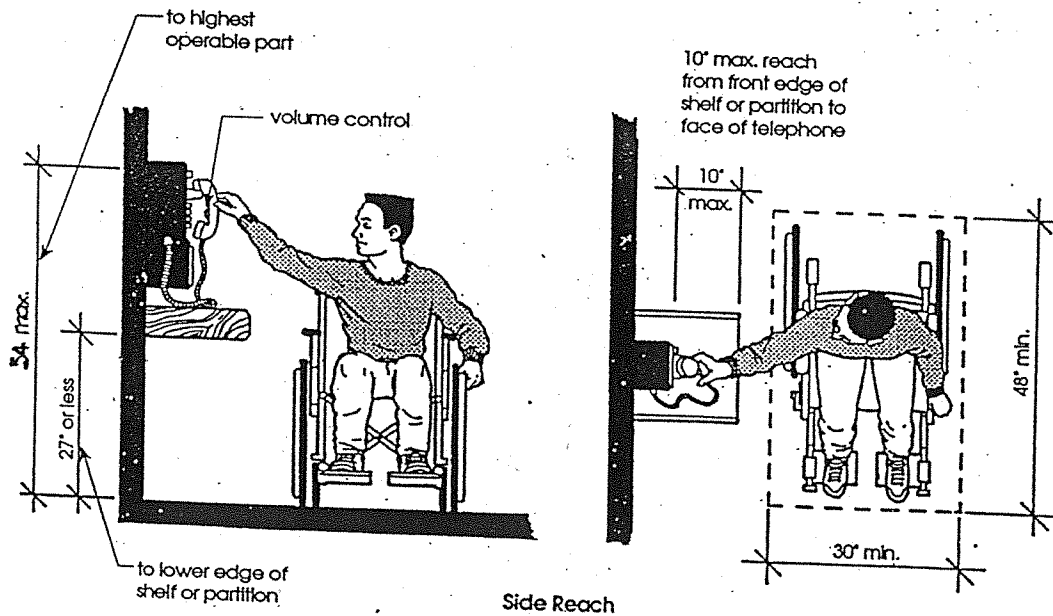


Window as a Means of Egress

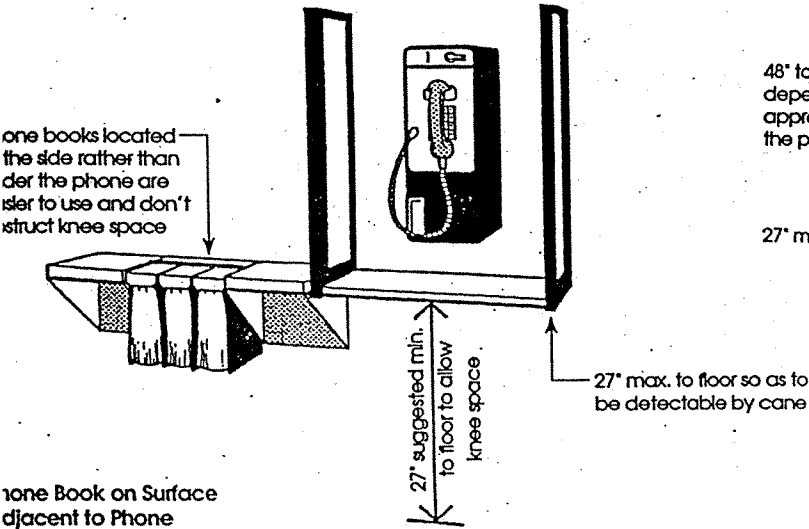
TELEPHONES

The floor space must be between 30"x 48" minimum and no fixed seats or enclosures should encroach on this space. The minimum cord length is 29" which is measured from the point it enters the telephone to the point it enters the handset. For people with hearing problems a volume control device is provided.

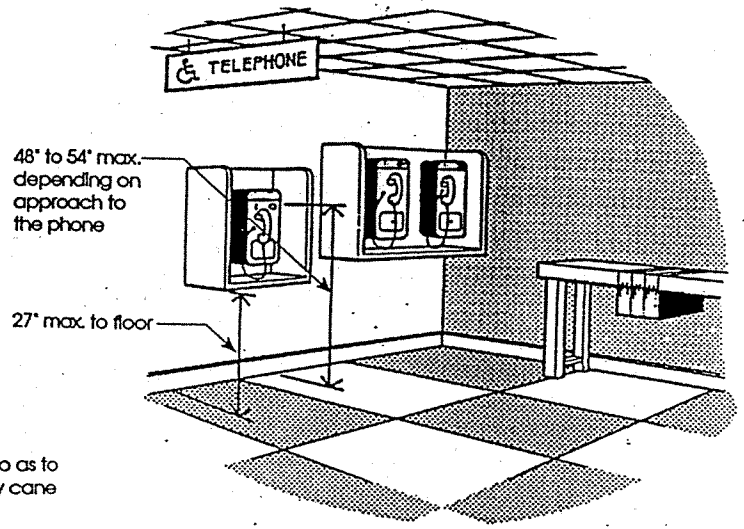
A handicap person should be able to pull up to a phone from the side and the front approach. The required height for all controls, including the coin slot must be 54" above the ground surface. The height from the floor to the bottom of the enclosure is 27" max. There must also be a phone book available which has to be positioned between 9" to 54" of the ground surface.



Phone books located on lowered tables or surfaces adjacent to the phone may be easier for many people to use. The lowered height makes access to the phone book easier.

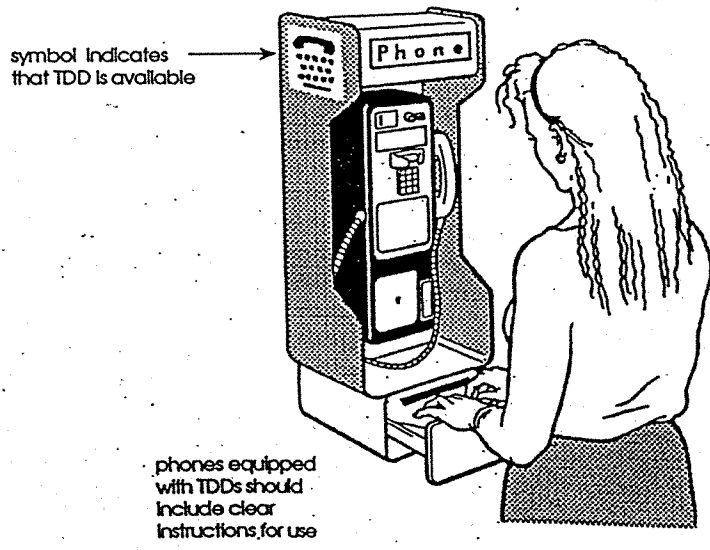


Phone Book on Surface adjacent to Phone



Install Additional Phone or Mount Existing Phone at Lower Height

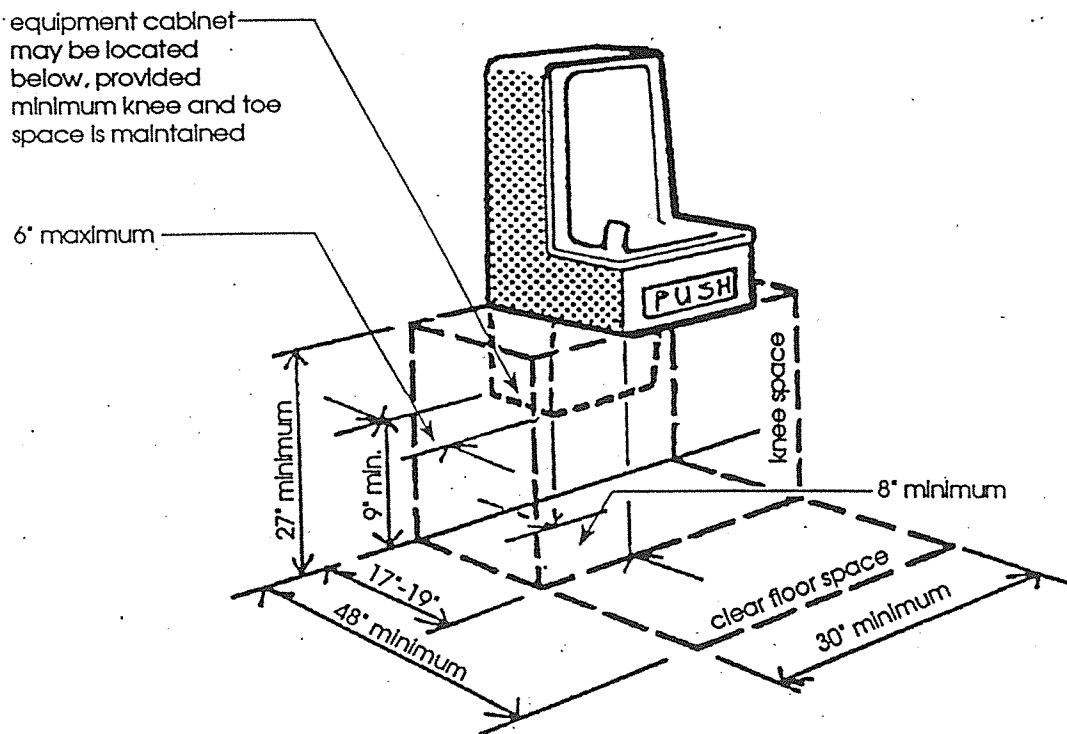
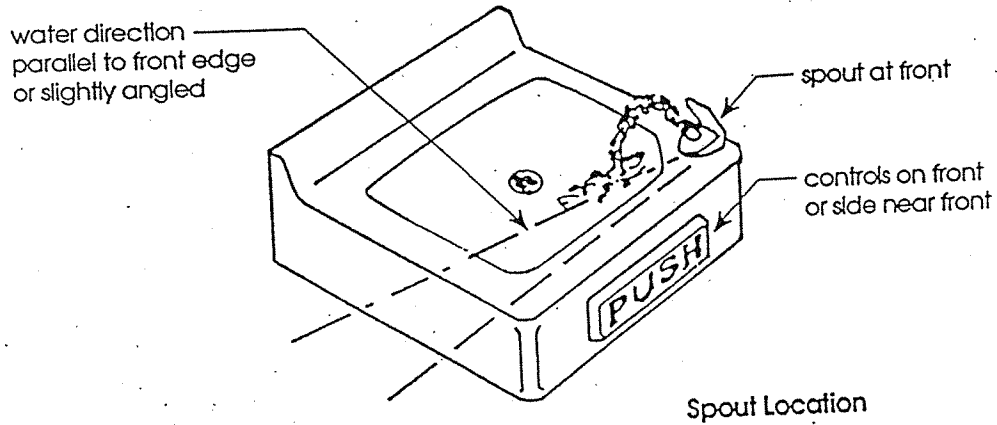
Telecommunication device for the deaf also known as telephone display devices which can be installed in conjunction with standard pay phones are currently available. To operate the device, the user dials the phone in the traditional manner and places the handset in a holder. If the answering party responds with a TDD, a drawer containing the TDD keyboard opens and both people can begin conversing.



Pay Phone with Built-in TDD

DRINKING FOUNTAINS

For a drinking fountain to be accessible, the spout outlet should be located at the front edge and should be no higher than 36 inches above the floor. The spout must direct the flow of water at least four inches high and parallel to the front edge of the unit. The height of the spout should be no more than 36" maximum.

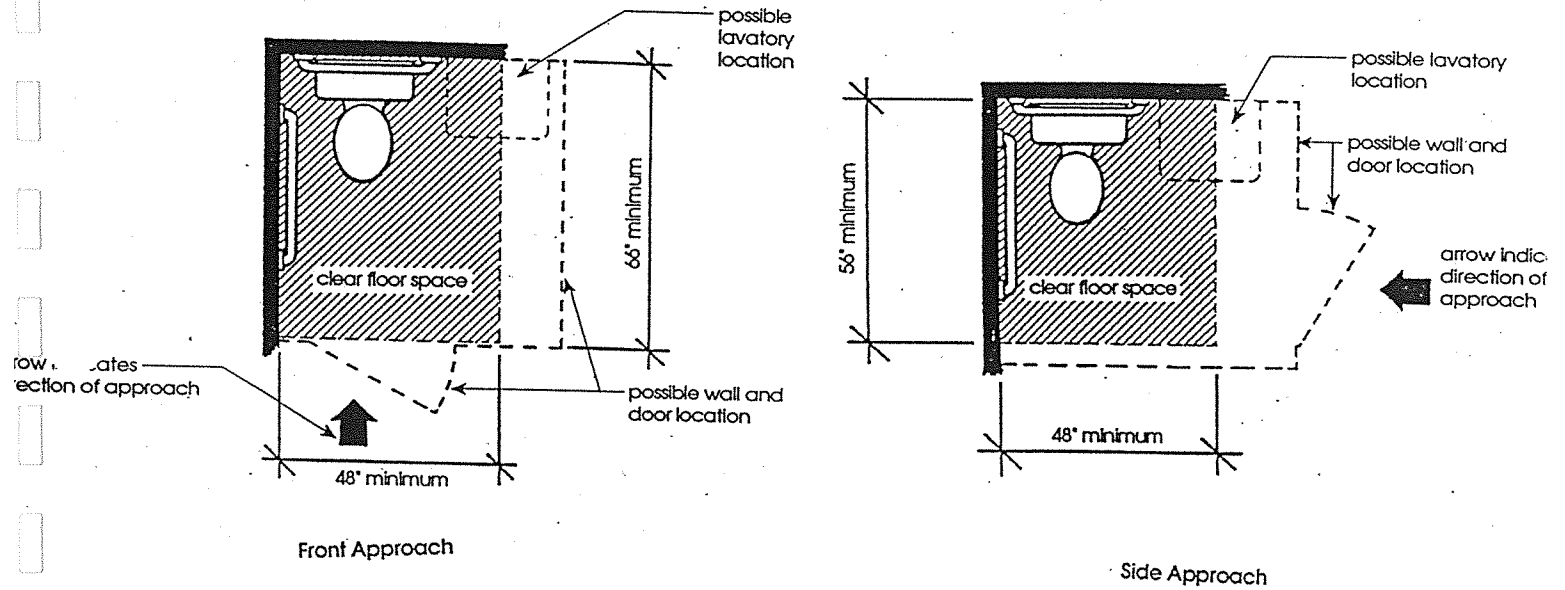


Knee Space and Clear Floor Space for Cantilevered Units

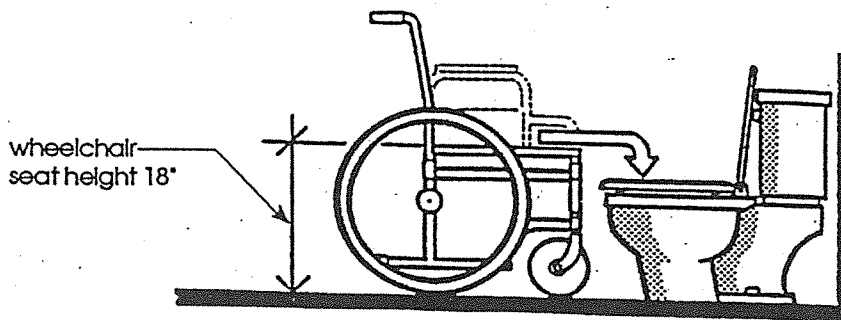
REST ROOMS

Rest rooms have to be identified according to gender symbols with 12" symbols centered 60" above the floor.

There should be a clear space of 44" to 48" between all fixed elements in the rest room to allow wheelchair to maneuver through the room. The diameter of a circular area must be 60" providing a person in the wheelchair enough room to turn completely around.



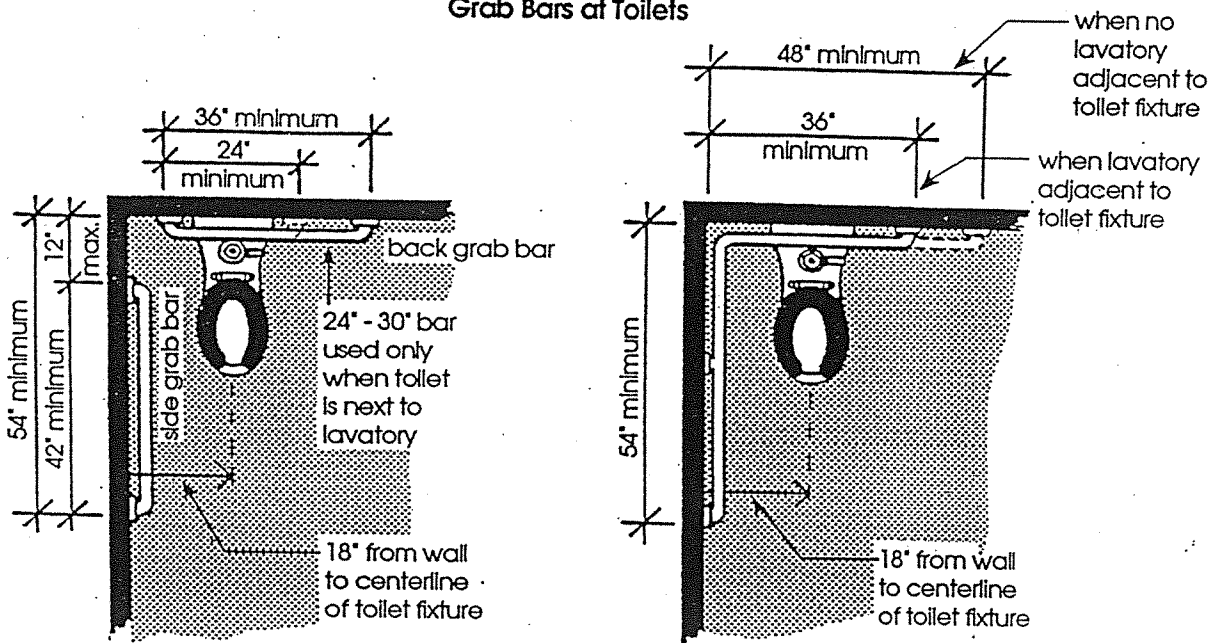
Seat heights from 17 inches to 19 inches are easier for both standing mobility impaired people and wheelchair users to use.



GRAB BARS

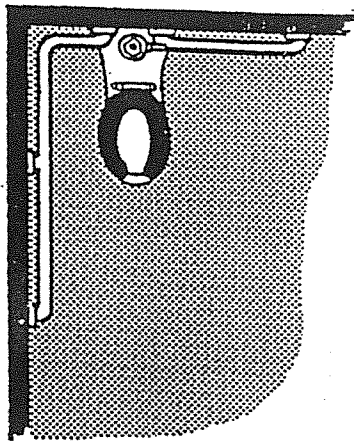
Grab bars must be provided to assist people on and off the toilet, they must be parallel to the ground 36" above the ground. The grab bar to the side of the toilet should be a minimum or 42 inches in length. The grab bar at the back of the toilet should be a minimum of 36 inches in length. Grab bars should be installed so they do not interfere with the installation of shorter easy to reach flush valves.

Grab Bars at Toilets

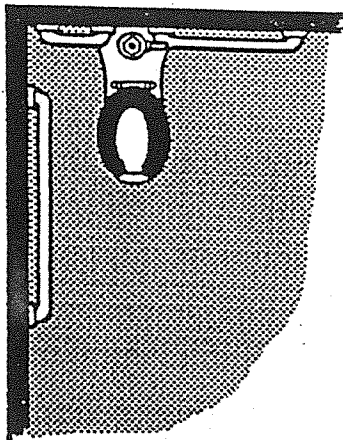


Separate Side and Back Grab Bars

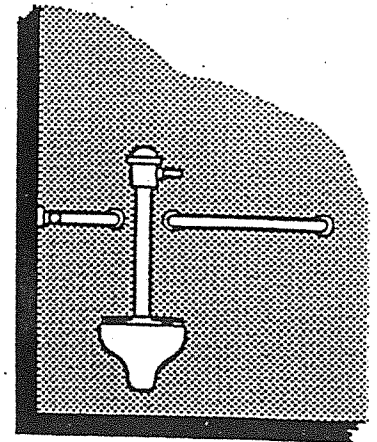
"L-Shaped" Grab Bar



"L-Shaped" Grab Bar Plan View



Split Back Grab Bar Plan View



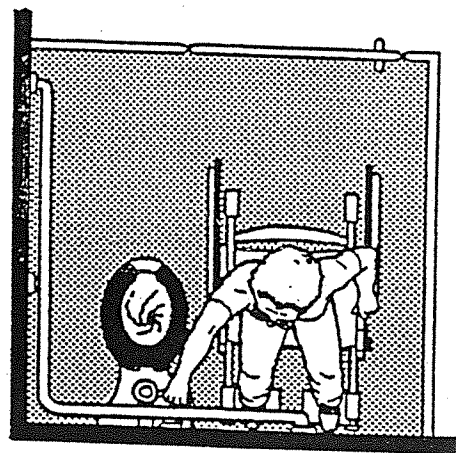
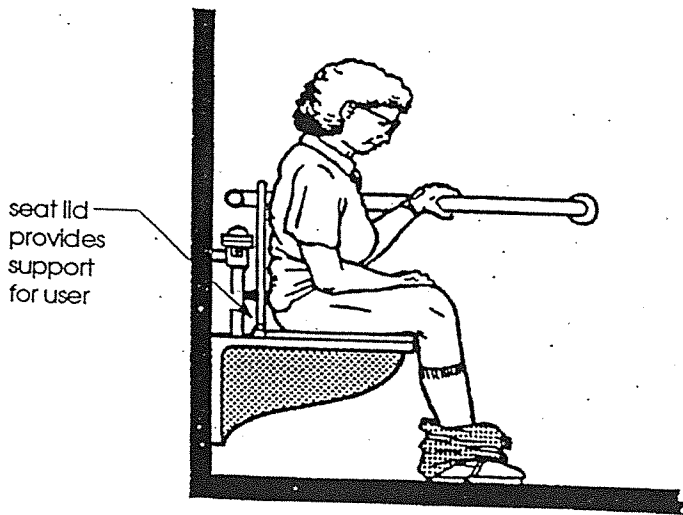
Split Grab Bar Elevation

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CONTROLS AND DISPENSERS

Flush controls and dispensers must be easy to operate and located within reach of a person seated in the toilet. Flush controls must be automatic and should be mounted on the open side of the toilet no more than 44 inches above the floor.

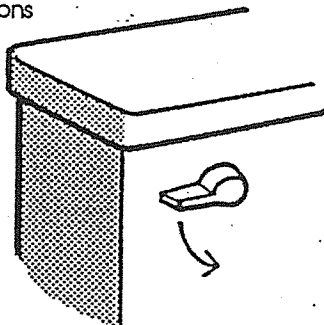
Mirrors, containers, dispensers (towels, sanitary napkin) are to be placed 40" min. from the floor surface.



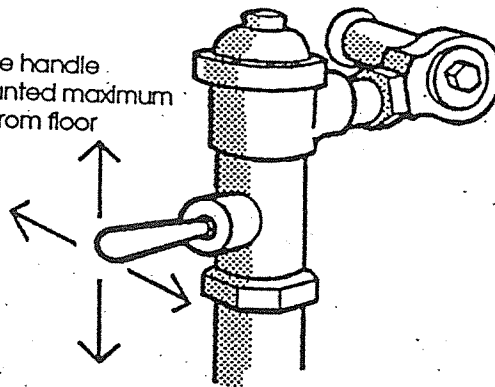
valve handle must be located to open side of toilet for easy reach

Location of Flush Controls

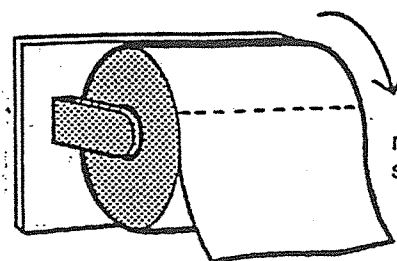
Flush controls should be automatic or easy-to-use levers or push buttons



valve handle mounted maximum 44" from floor



Flush Controls

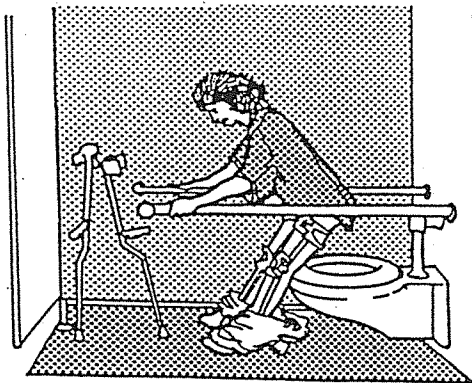
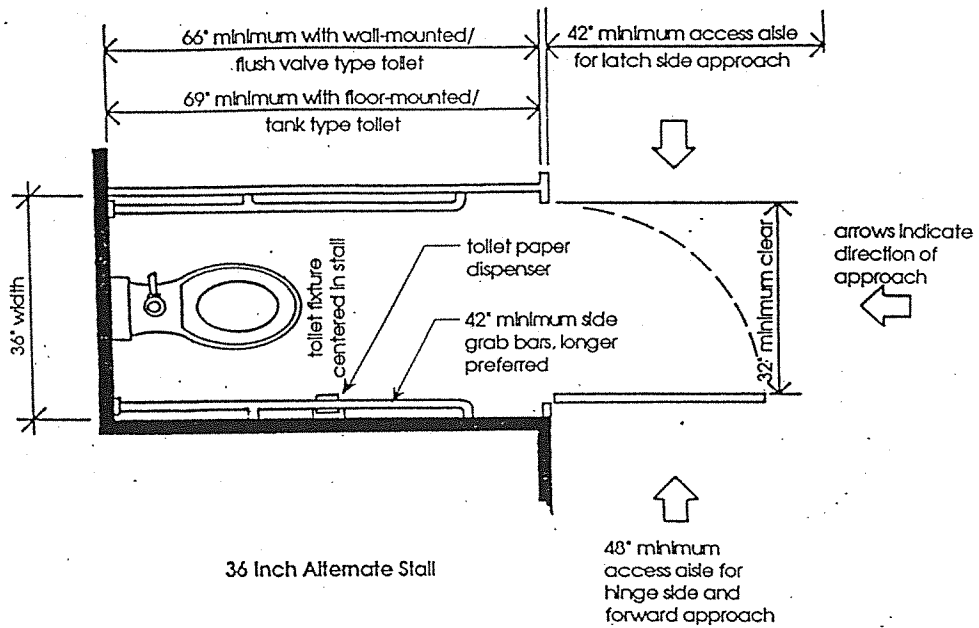


roller on dispenser should be free turning

STALL

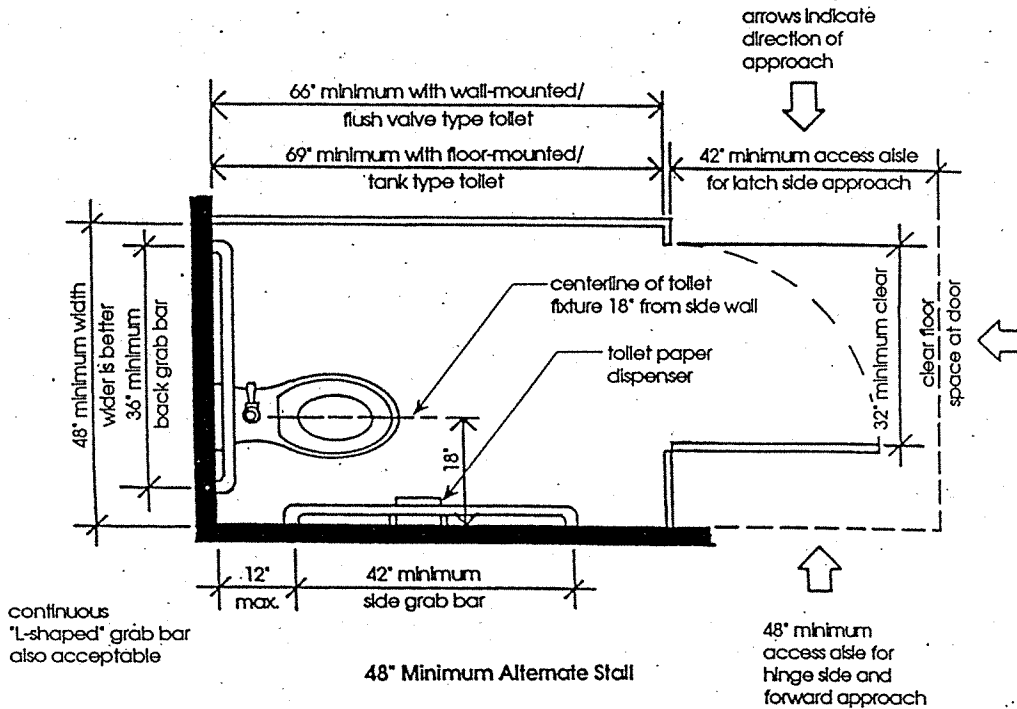
For the bathroom the stall must have self closing doors located on both sides below the latch and must be U- shaped loops. The width of the door is at least 32" to 34" depending where the stall is entered from. The total width of the stall from wall to wall is 60" with a depth of 48" to the edge of the toilet.

The 36 inch wide stall was originally designed for grab bars simultaneously while standing or sitting. The 48 inch minimum alternate stall provides more transfer options for wheelchairs users that the 36 inch wide stall.

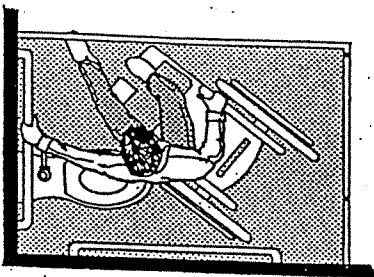


The 36 inch wide toilet stall with two long grab bars was originally designed for people who have difficulty sitting down and rising again to a standing position. The stall is an excellent design for people with arthritis or those who walk with braces or crutches because they can use both grab bars to lean on and to pull on while sitting down or getting up.

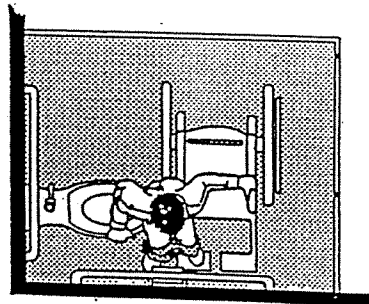
In most cases the 36 inch and 48 inch alternate stalls will need to be deeper than existing stalls and the protrusion into circulation space may be unacceptable especially in small toilet rooms.



Use of 48" Wide Stall



The 48 inch stall is less usable than the 60 inch stall because it is not wide enough to permit a parallel or diagonal wheelchair approach. It also does not provide enough space for a wheelchair user to turn around. A reverse diagonal approach is possible in a 48 inch stall, but it requires that the user back out of the stall.



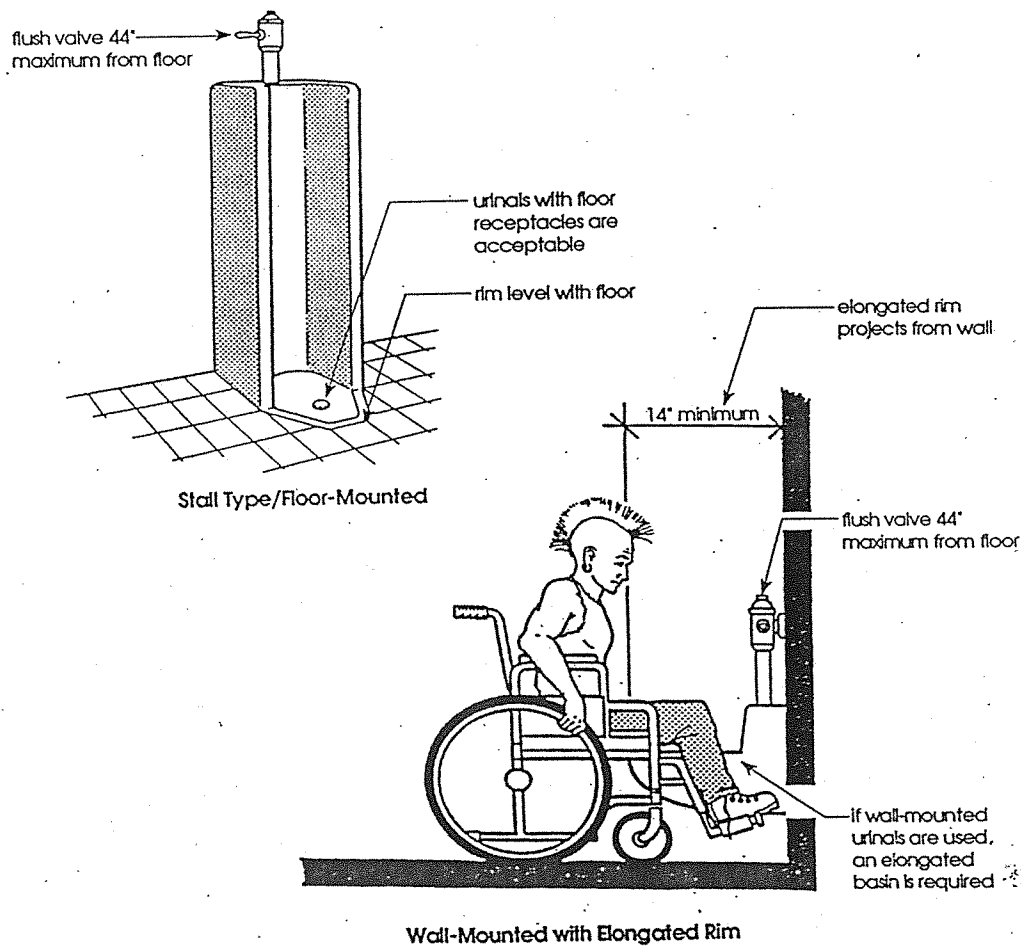
A perpendicular approach may be possible for some users if the stall is wider than 48 inches; permitting the user to back in and turn into the 90° position. This stall is too small to use with an attendant.

URINALS

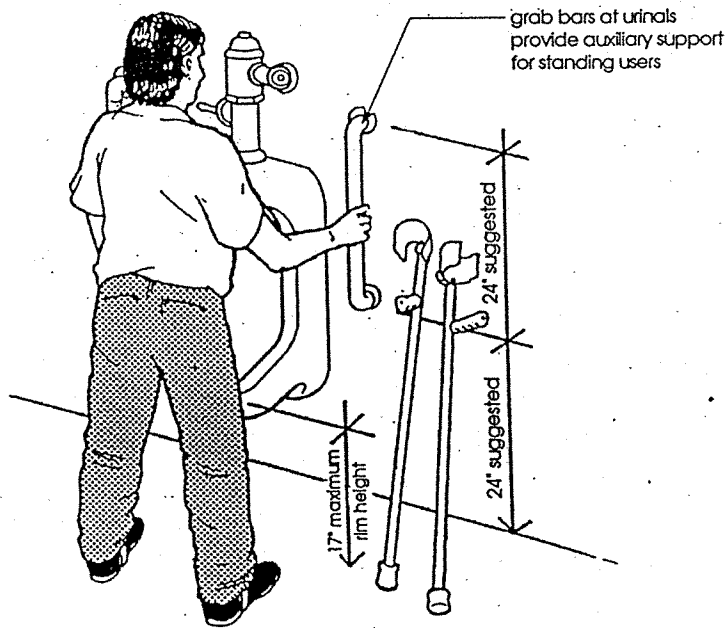
There are different faucets controls which must be operable without tight grasping or twisting. This controls must not require more than 5 lbs of force to operate.

All kinds of drain pipes and hot water pipes must be isolated providing protection from sharp edges and hot surfaces.

At least one urinal must be provided. A stall type/mounted or wall mounted with an elongated rim is required. This rim has to be mounted no higher than 17 inches from the floor, several inches lower than the "standard" mounting height for urinals. The lower rim height allows wheelchair user to pull in close. Floor mounted urinals should have rims level with the floor to allow close approach by wheelchair users.



The installation of vertical grab bars on both sides of urinal is recommended. These grabs are designed to serve as auxiliary support for ambulatory men who use crutches, leg braces, canes and walkers.

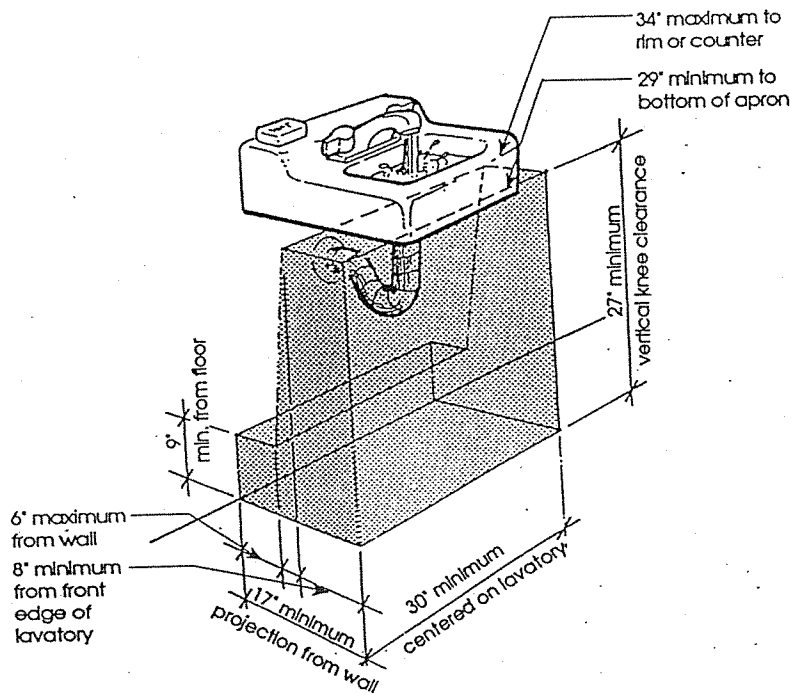


Grab Bars at Urinal

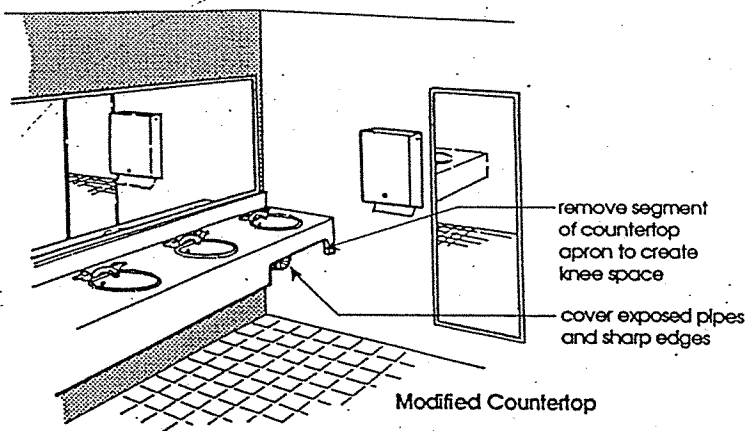
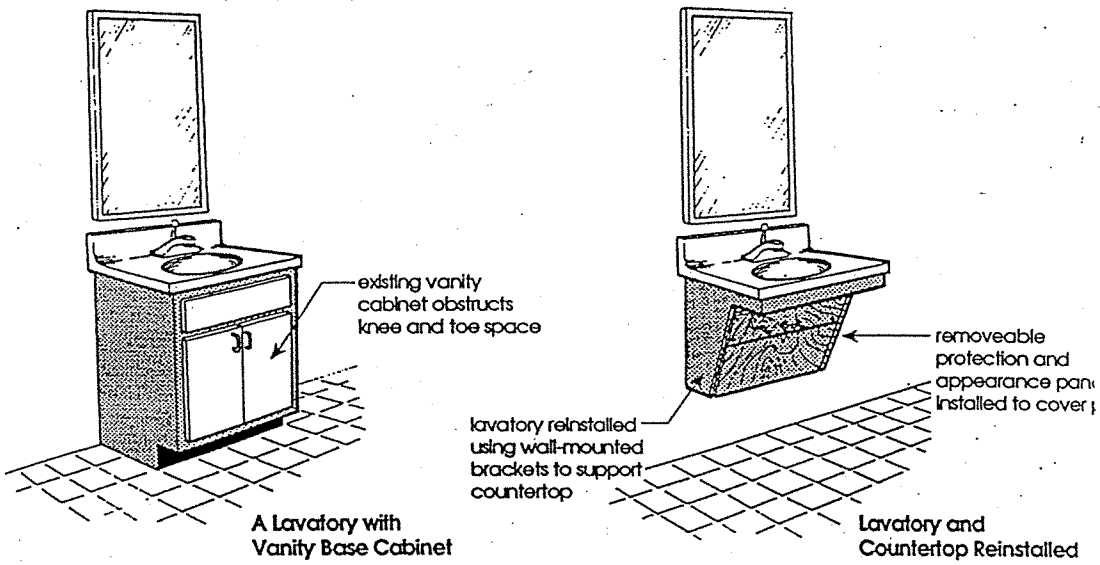
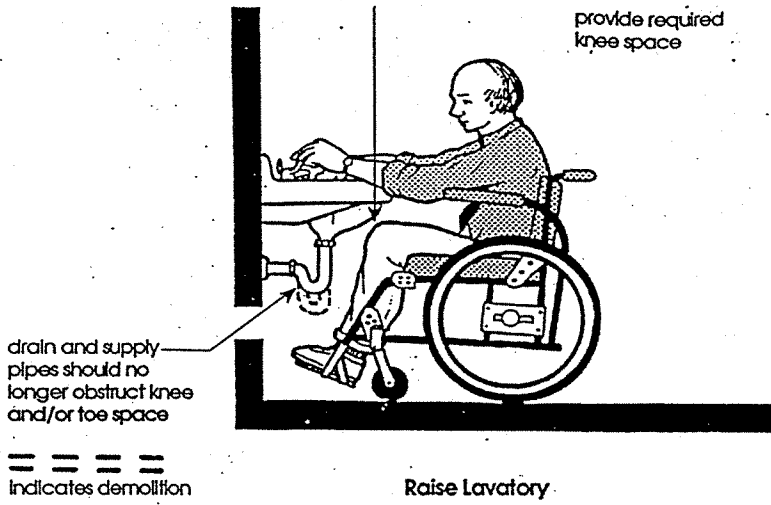
SINKS

At least one sink must be accessible. It should be 34" above the floor and the knee space under it must be at least 29" to the floor and 17" deep to the wall. The sink's width measurement is 30" and its depth is 48" min. The provision of knee and toe space is necessary for wheelchair users to make a close front approach to the lavatory without their knees or chairs bumping the lavatory and pipes.

This requirements apply to all types of lavatories including wall-hung, counter top, pedestal, vanity and other combinations.



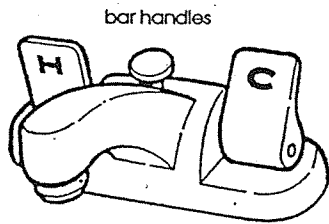
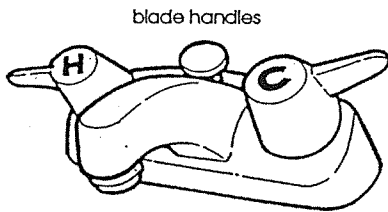
Knee Space and Toe Space at Lavatories



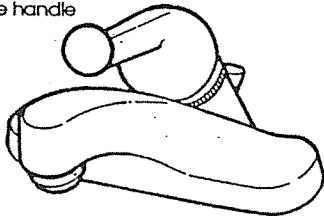
LAVATORY FAUCETS

Faucets may be lever operated, push type, or electronically controlled provided that are operable with one hand and do not require gripping, twisting, or excessive force to operate. The faucets are to be located more than 17 inches from the front edge of the lavatory.

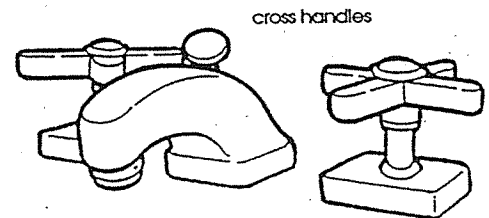
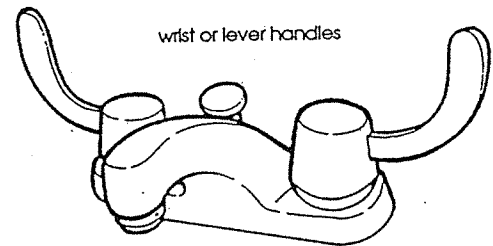
Examples of Acceptable Faucets



wand-type
single handle

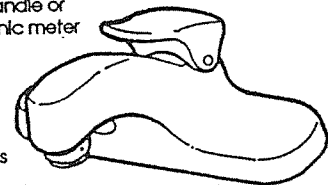


Examples of Acceptable Faucets



push handle or
electronic meter

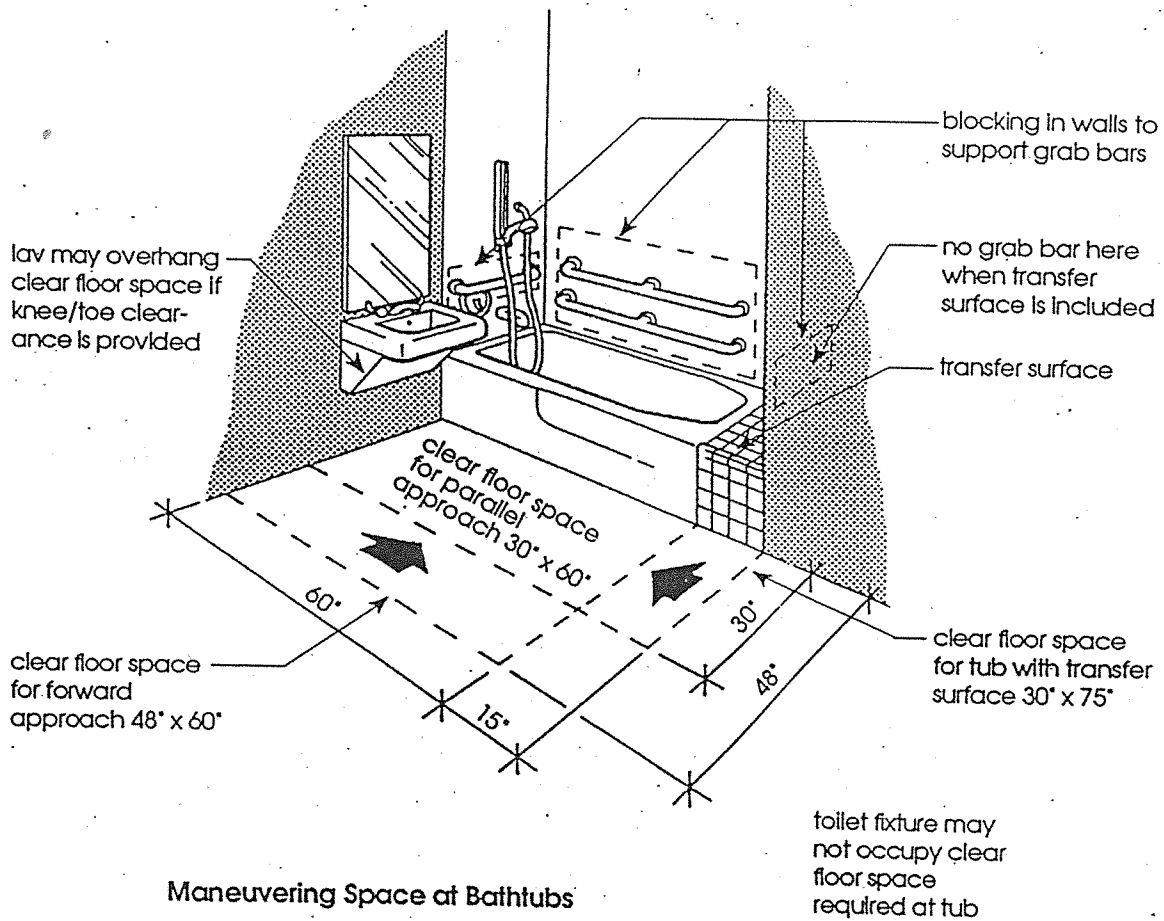
self closing valves
must remain open a
minimum of 10 seconds



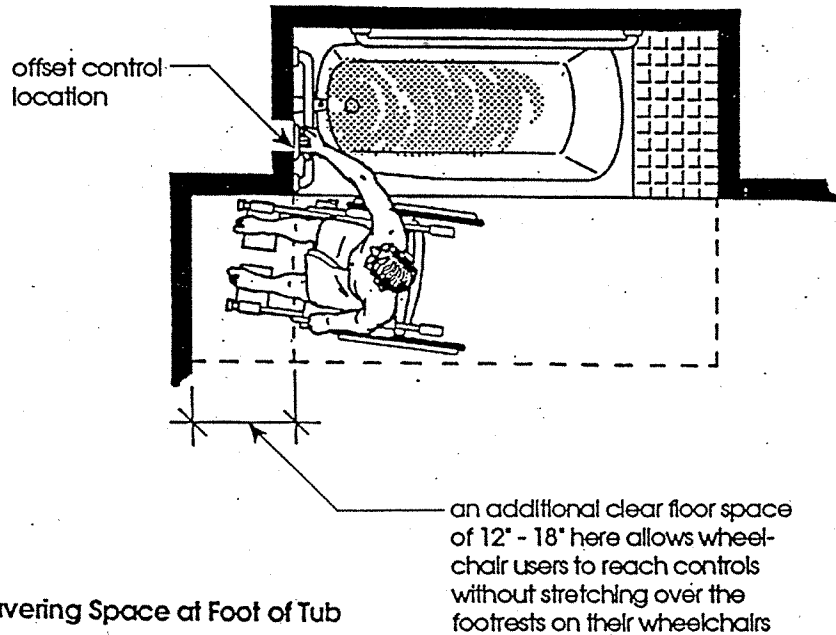
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BATHTUBS

Bathtubs can be made of acrylic, plastic, fiberglass, or porcelain enamel. There are several approaches to the bathtub fixture from the wheelchair user's attempt. If space for a parallel approach is planned, it should be a minimum of 30 inches by 60 inches for an in tub seat and 30 inches by 75 inches minimum if the seat is included at the head of the tub. If a forward approach is planned, a minimum of 60 inches by 48 inches should be allowed.



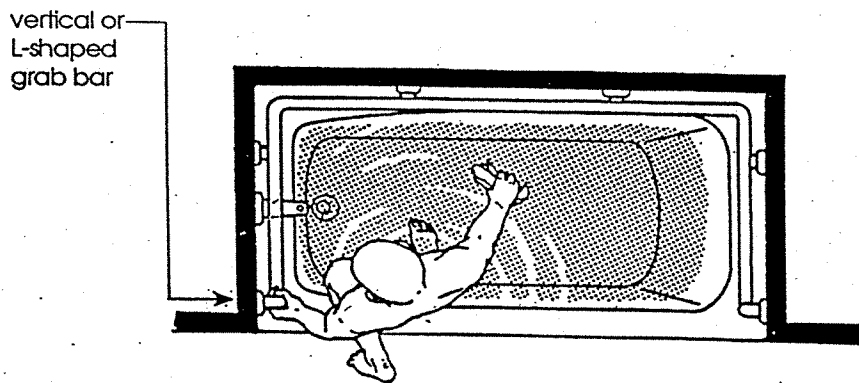
The inclusion of additional clear floor space forward of the tub meet the control makes reaching the controls easier for wheelchair users .



Additional Maneuvering Space at Foot of Tub

Grab bars provide support for users to transfer into and out of the tub; they must be provided on all three wall of the tub surround if an in tub seat is used.

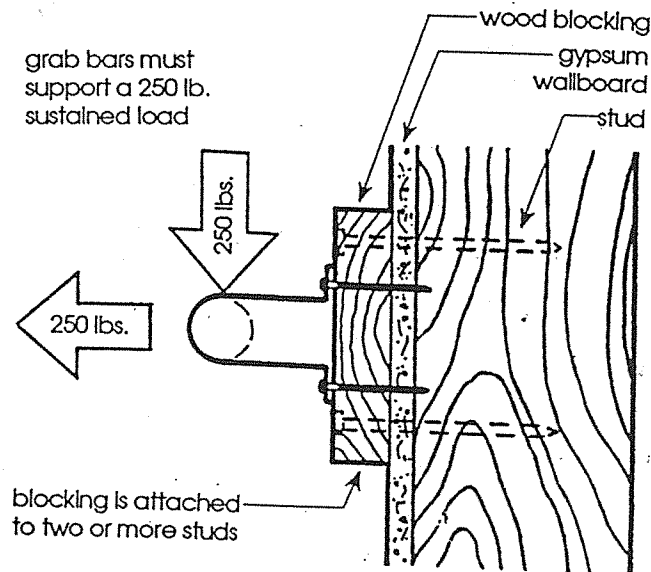
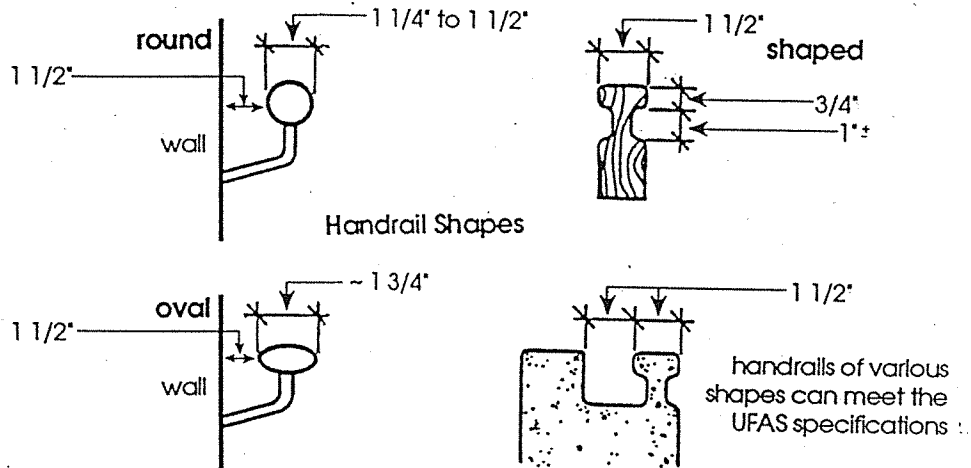
A vertical or L-shaped grab near the controls on the outside edge of the tub surround can provide support for the ambulatory users as they step over the rim of the tub.



Vertical Grab Bar Provides Support for Ambulatory Users

HANDRAILS, GRAB BARS

These elements are aids used to manipulate or manoeuver the wheelchair, balancing and supporting the body weight when in need of a toilet/bath seat with the assistance of them. The specified diameter or width of handrails and grab bars shall be between 1 1/4" and 1 1/2". This elements must be installed so that the person's arm will not get wedge between it and the wall, so the space required should be 1 1/2".

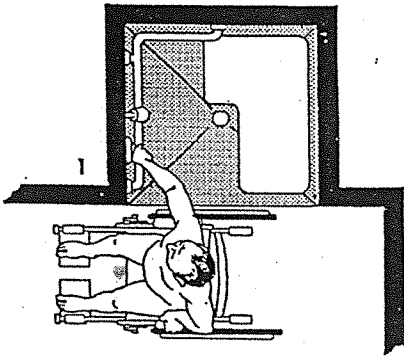


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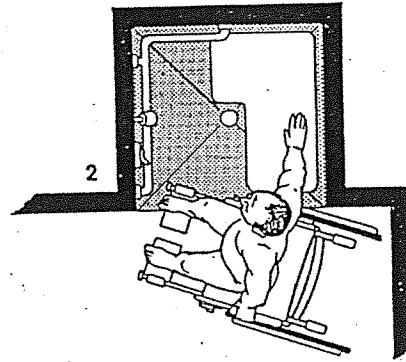
SHOWERS

Transfer showers are a fixed size of 36 inches to 36 inches (inside dimension). It is the particular size of the stall in combination with the specific configuration of the seat and controls that makes the shower safe and easy to use. These showers facilitate transfers from wheelchairs, allow seated people to sit comfortably in the corner with support from walls on two sides, provide grab bars for support when transferring or leaning forward to operate the controls.

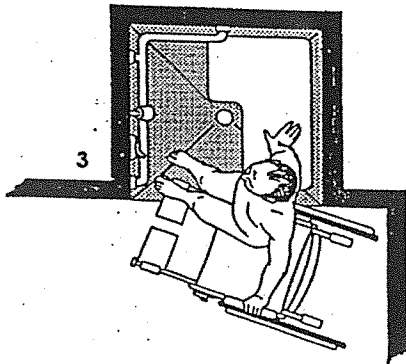
Use of the 36" x 36" Transfer Shower



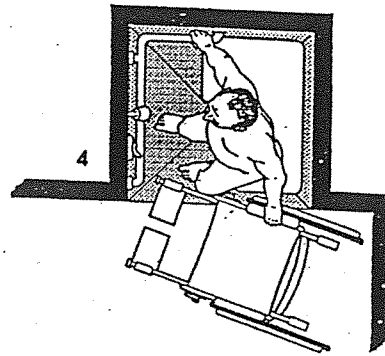
1
User pulls close to the controls which are easy to reach and tests the water temperature.



2
Because there is essentially no curb, the user can pull his wheelchair close to the seat. After removing the wheelchair armrest,



3
the user transfers from his wheelchair to the shower seat. Transferring is made easier and safer because the shower seat is generally mounted at the same height as the wheelchair seat.

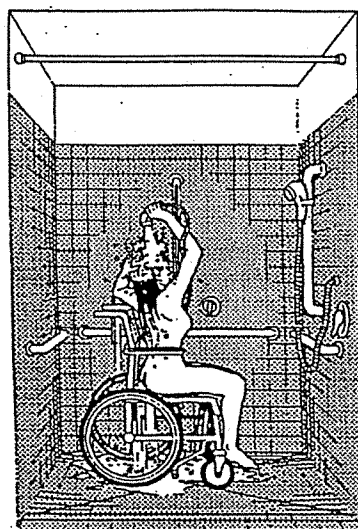


4
Using the grab bar for support, the user slides over to the corner where the shower walls provide lateral support. The size of the shower places the controls within easy reach. The grab bar provides support for those who cannot easily reach forward to operate the controls.

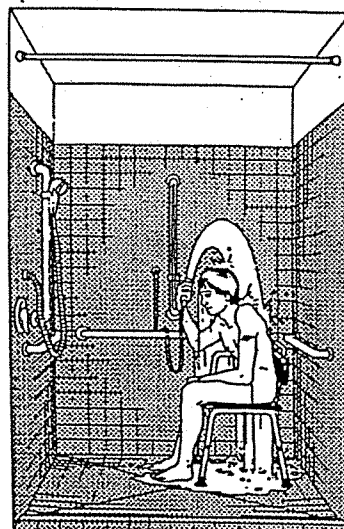
Roll in showers are designed without curbs to allow wheelchair users with special shower wheelchairs to roll directly in to the stall. People who have difficulty standing can sit on a portable shower chair. The minimum size roll in shower occupies the same space as a standard tub and it is usually installed when a shower is preferred over a tub.

Roll - in showers require a minimum clear floor space outside the shower of 36 inches by 60 inches.

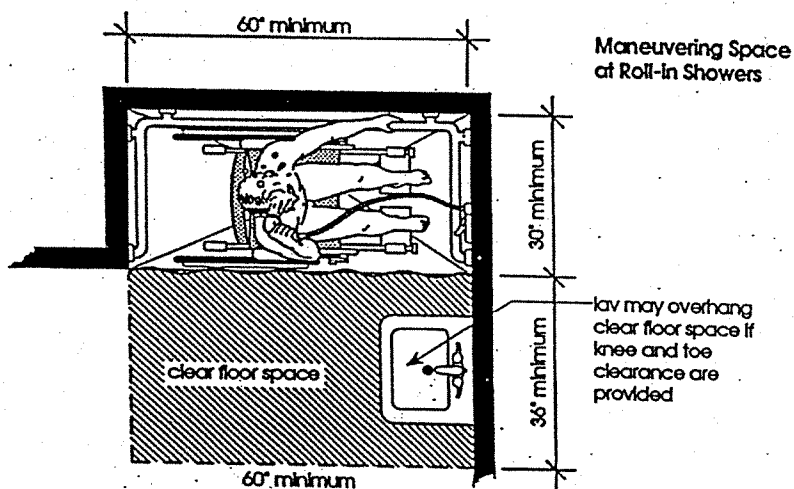
Use of A Roll-in Shower



Roll-in showers provide enough space for people in wheelchairs to maneuver and enough space to have an attendant assist in the shower if necessary.

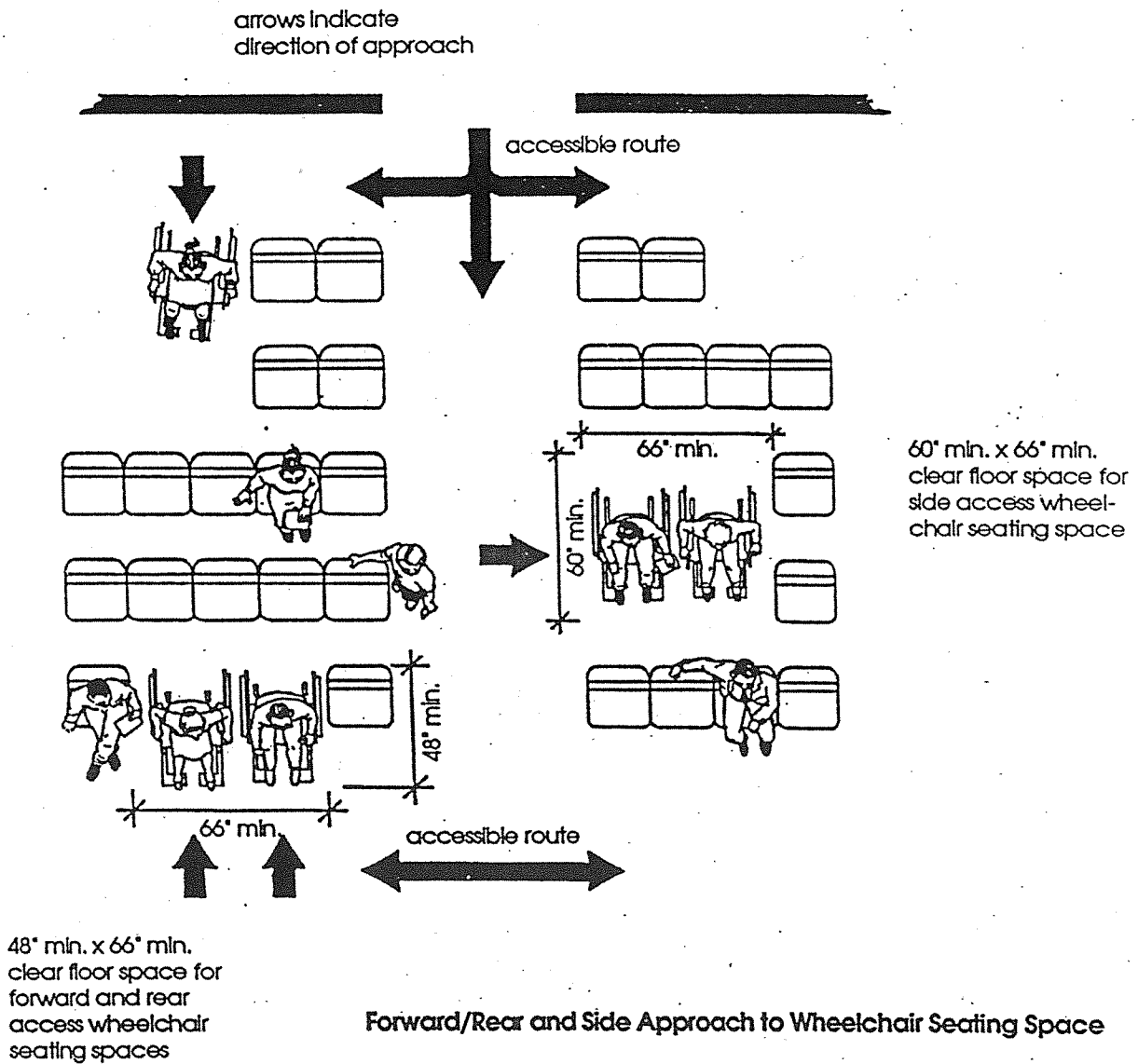


Portable seats can be placed in a roll-in shower for walking people who need to sit down to shower.



WHEELCHAIR SEATING SPACE

The size of the wheelchair seating space is based on the approach. If forward or rear approaches the wheelchair seating space must be a minimum of 48 inches by 66 inches. If a side approach to the seating spaces is required the wheelchair seating space must be a minimum of 60 inches by 60 inches. This spaces must be dispersed such that they are an integral part of any fixed seating plan and include locations which are equal to those provided to the general audience.



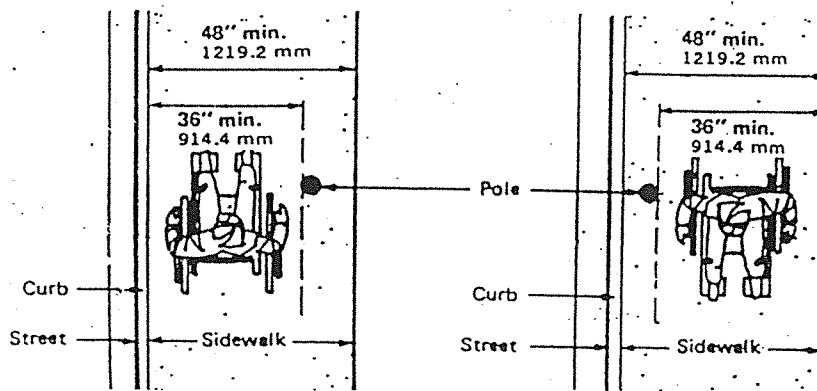
WALKS AND SIDEWALKS

Accessible walks and sidewalks must have a continuous common surface, uninterrupted by steps or abrupt changes in level over 1/2 inches. Level changes not exceeding 1/4 inch can be vertical and greater level changes are to be leveled with a slope of no more than 6%. Walks, sidewalks and pedestrian ways shall be free of gratings, whenever possible. If there are gratings or grid openings these are to be no more than 1/2" in the direction of the traffic flow.

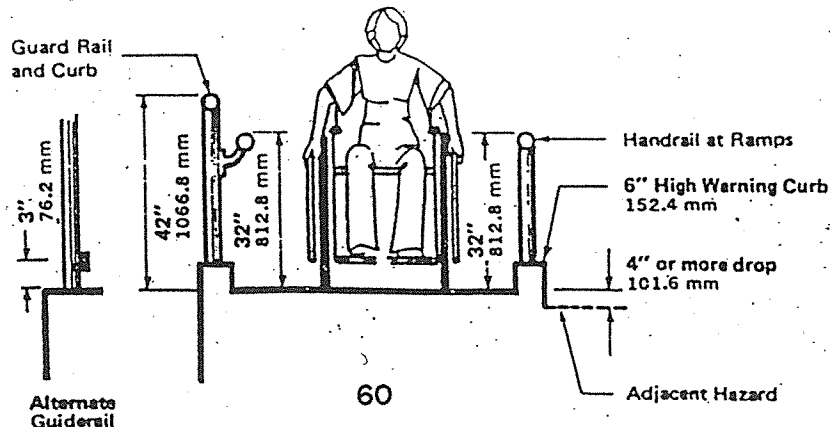
The width of the walk must be at least 36 to 48 inches wide max.

When the slope of a sidewalk is less than 6% the surface must be at least as slip-resistant as a medium salted finish. When the slope is greater than 6% the surface shall be slip-resistant. If this slope increases 6% in the direction travelled then it must comply with the requirements of pedestrian ramps.

Surface cross slopes (slope in a direction other than the direction of travel) must not exceed 1/4 inch per foot. This slope may be increased to a maximum of 1/2 inch per foot for distances not over 20 feet only in special case.



When abrupt changes occur such as planters or fountains located along the walk; warning curbs projecting at least 6" above walk shall be placed to help identify area. There is only few occasions when curb is not required; if the slope of the walk is 5% or less, when a handrail is provided and when no adjacent hazard exist.



RAMPS

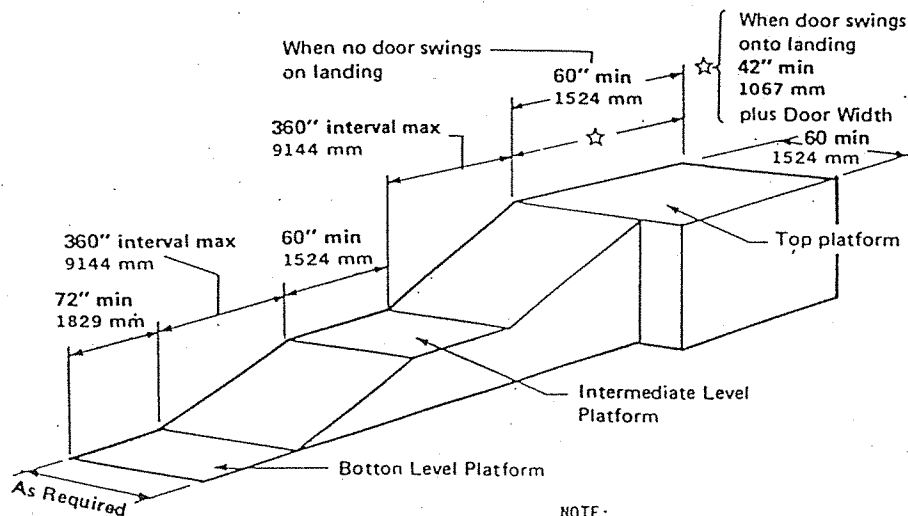
Any path of travel is considered a ramp if its slope is greater than 6% (1:20); however the slope of a ramp must not exceed 8.33%

(1:12). It is required that continuous full length handrails are to be placed on each side of the ramp. The handrails should extend at least 12 inches beyond the top and bottom of the ramp, and the ends are to be rounded. The handrails must be 30-34 inches above the ramp surface.

Ramps that require handrails and that serve one individual dwelling unit are allowed to have one handrail on the open side if the ramp is open on one side only. When the ramp is longer than 10 feet, and the ramp surface is not bounded by a wall or fence, there shall be a curb at least 2 inches high.

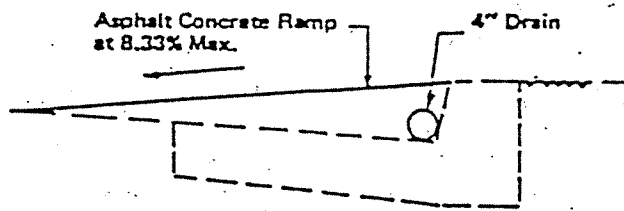
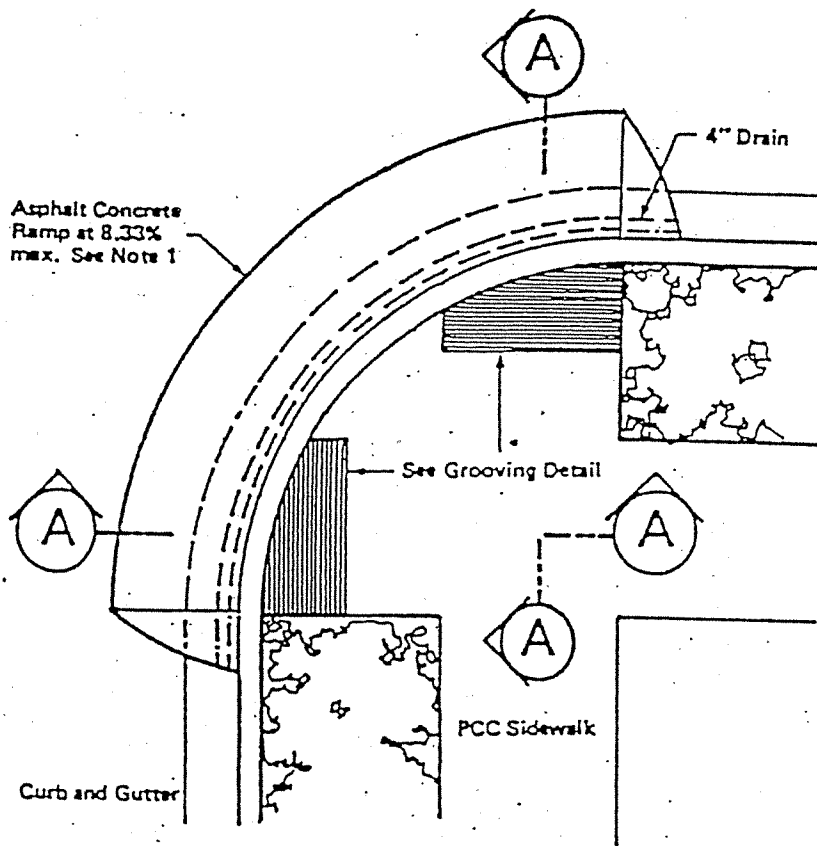
The width of the ramps ranges from 36 inches to 60 inches depending on the amount of occupants it will serve. When it serves 300 occupants it will be 60 inches wide; when it serves 50 to 300 occupants the minimum clear width is 44 inches and if the building serves less than 50 occupants ramps will have a clear width of 36 inches.

There should be landings at top and bottom of each ramp. The top landing dimension measured in the direction of the ramp should be at least 60 inches wide and 60 inches in length in the direction of the ramp.

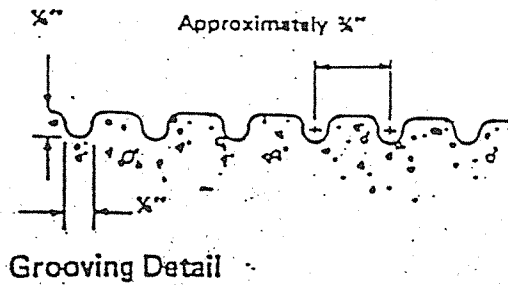
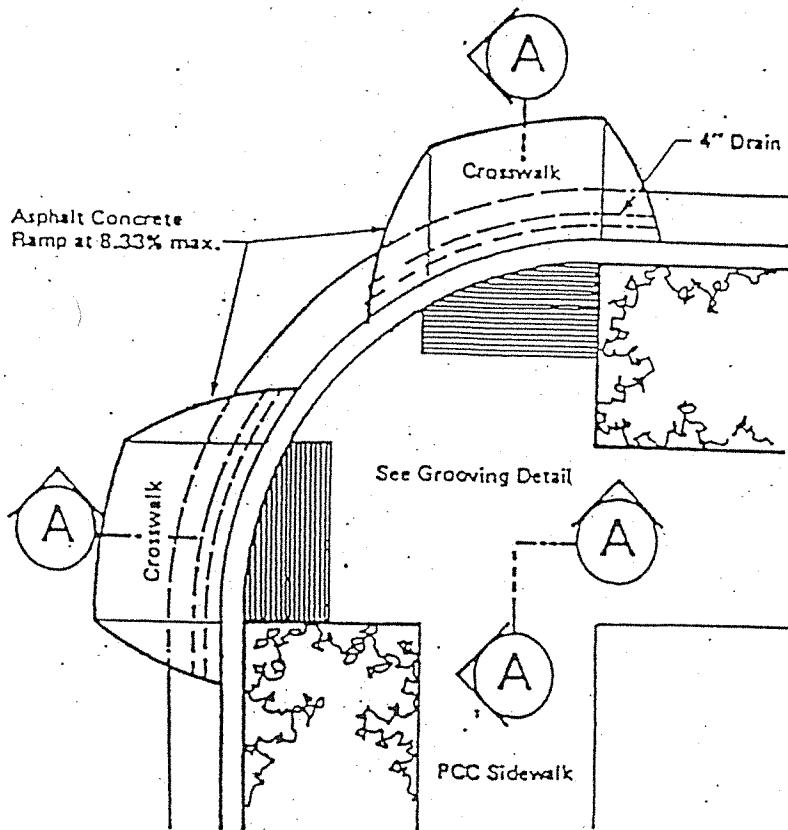


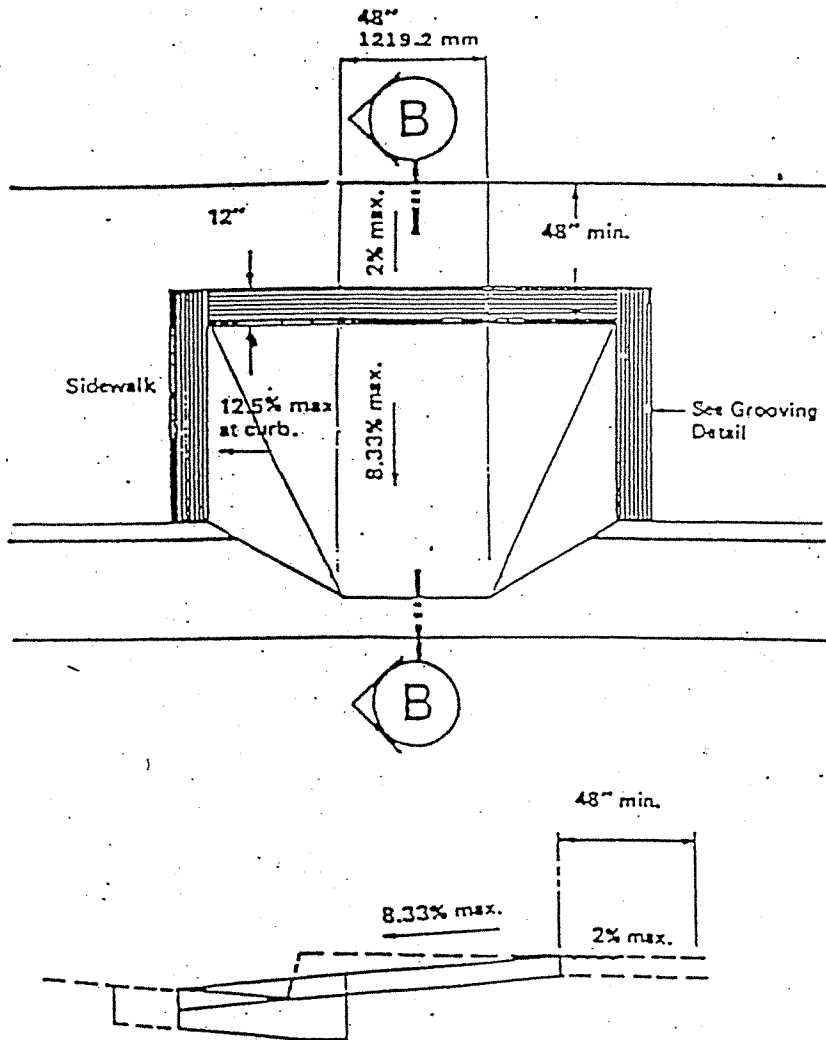
NOTE:
Maximum Horizontal Distances of each ramp and run varies. See table under 2-3306

Straight Ramp Run

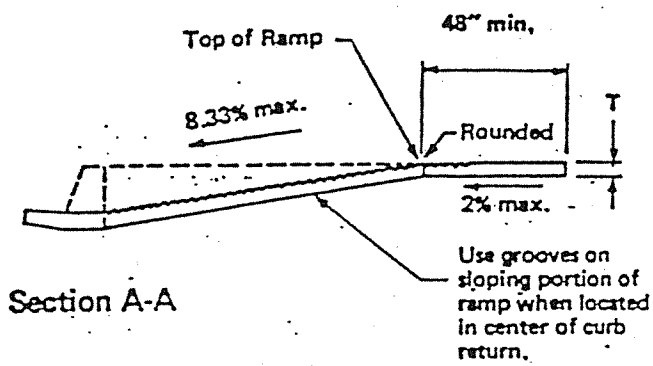


Section A-A

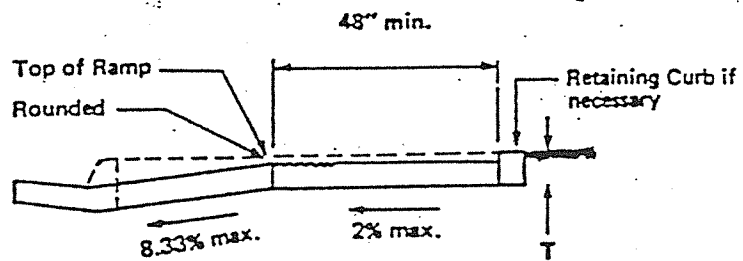




Section B-B

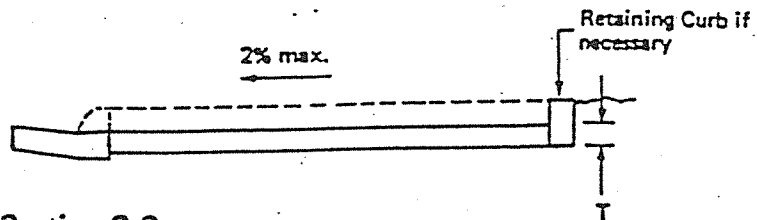


Section A-A



Section B-B

Depress entire sidewalk as required



Section C-C

EXTERIOR RAMPS

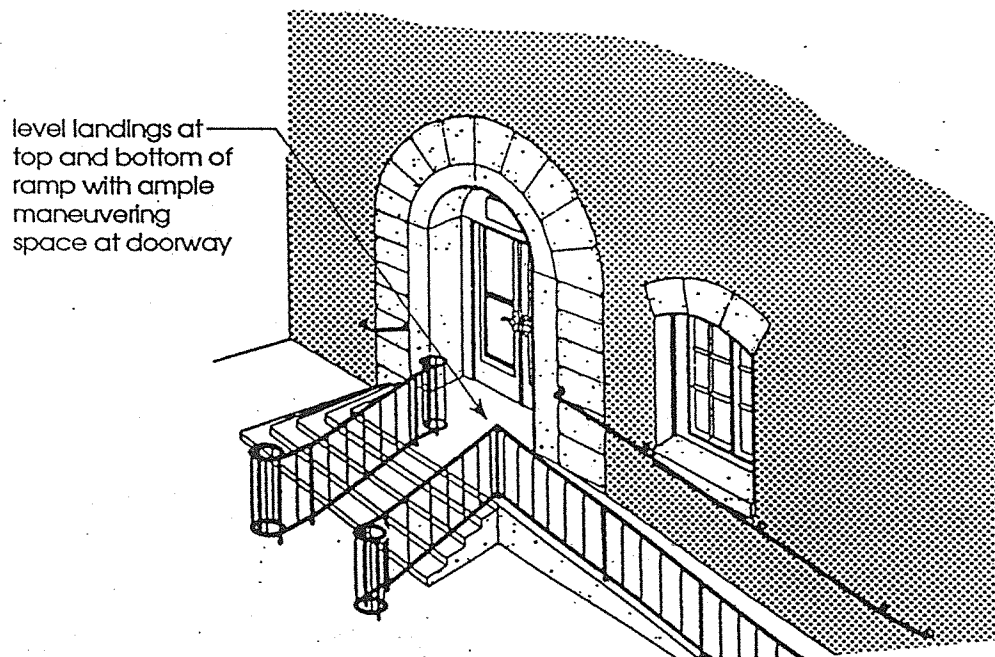
The slope must not exceed 1:12 and the width of the is 48" to 60". When dealing with cross slopes they may not exceed 1:50". There should be a ramp at the top and at the bottom of each segment. The top landing must be 60"x 60"and the bottom landing must be 72" long and as wide as the ramp surface. If there is an intermediate landing it must be 60" long and as wide as the ramp.

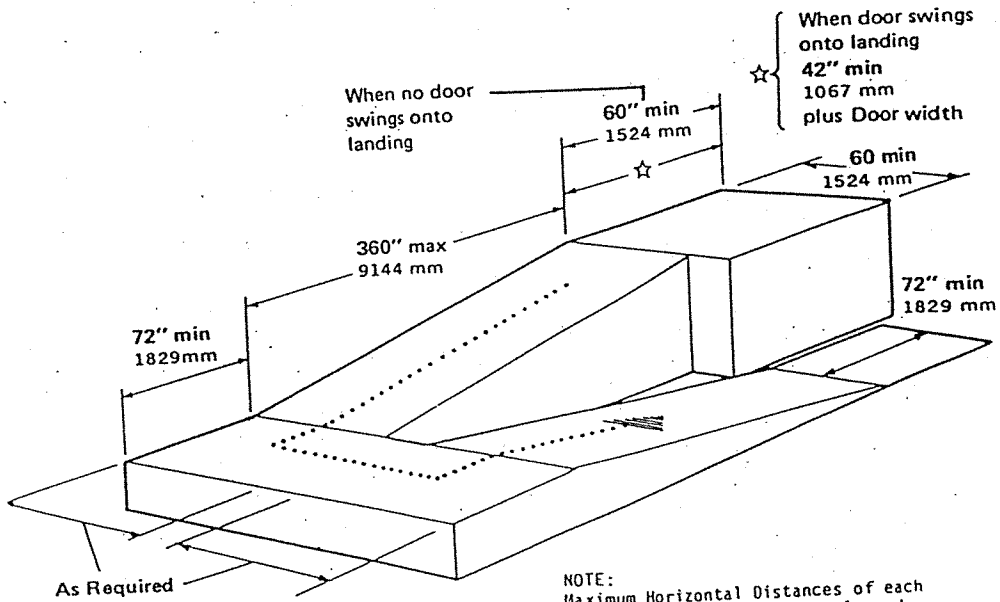
When the ramps rise more that 6" and have a run longer that 72" handrails should be provided. They should be 1-1/2" from any adjacent vertical surface or farther that 18" allowing enough space to get a good grip. Handrails as well as ramps shall be free of sharp edges and their ending must not be abrupt, it is recommended to have a rounded return. The height is to be between 34"and 38" above the ramp surface and the vertical clearance must be at least 80" above the entire ramp.

In use of a steep ramp it is recommended to keep the horizontal projection/run at 18" or less. This length will allow most wheelchair users to keep at least one set of wheels on level ground and eliminate the need to maintain the entire chair on a steep slope at one time.

RAMPS THAT CHANGE DIRECTION

This definition applies for ramps that turn or switch-back at an intermediate landing. The minimum landing size shall be 60" by 60"and if a door is located at the landing, then ample manoeuvring space must be allowed at the front and side door. The handrails must be continuous through out the change in direction and they can only extend 12" beyond the ramp, parallel with the landing surface.

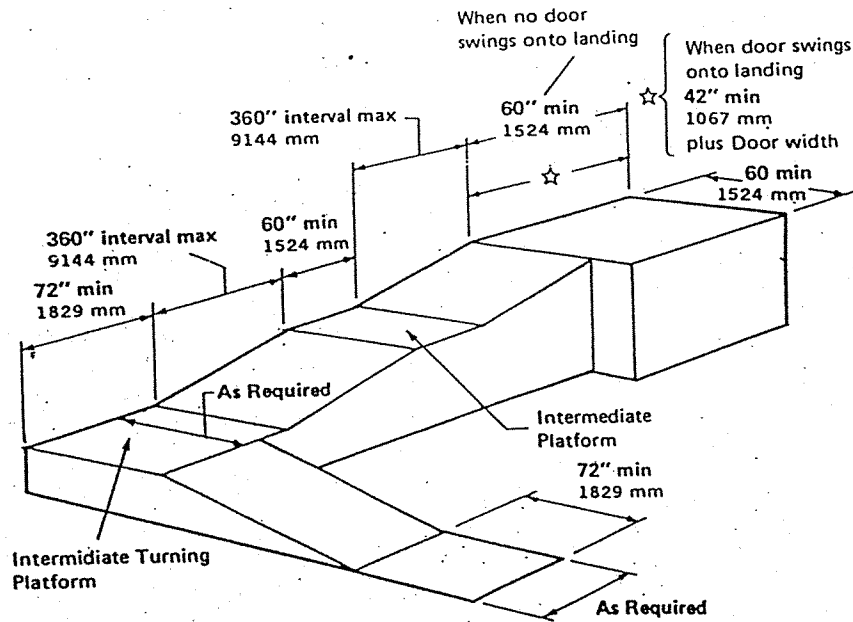




NOTE:
Maximum Horizontal Distances of each
ramp and run varies. See table under
2-3306

Ramp With Intermediate
Switch-Back Platform

All ramps must meet handrail and curb
requirements

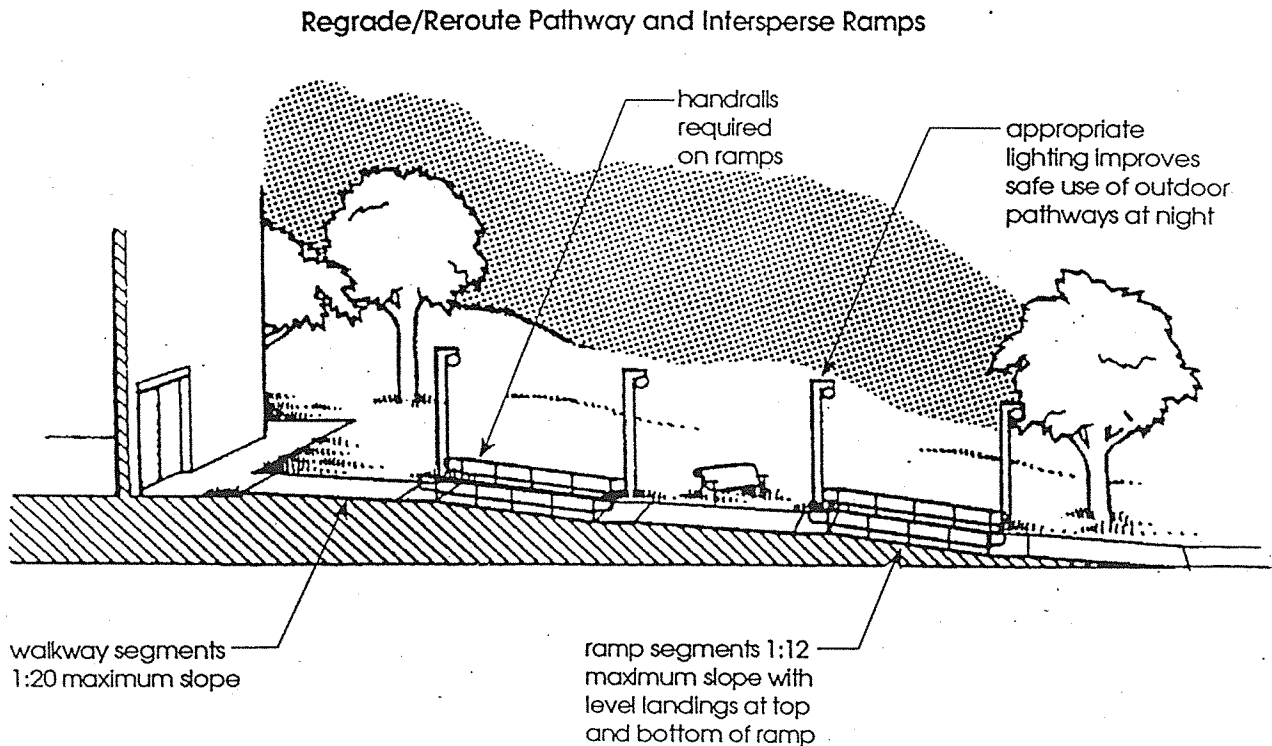


Ramp With Turning Platform

NOTE:
Maximum Horizontal Distances of each
ramp and run varies. See table under
2-3306

MAXIMUM SLOPE

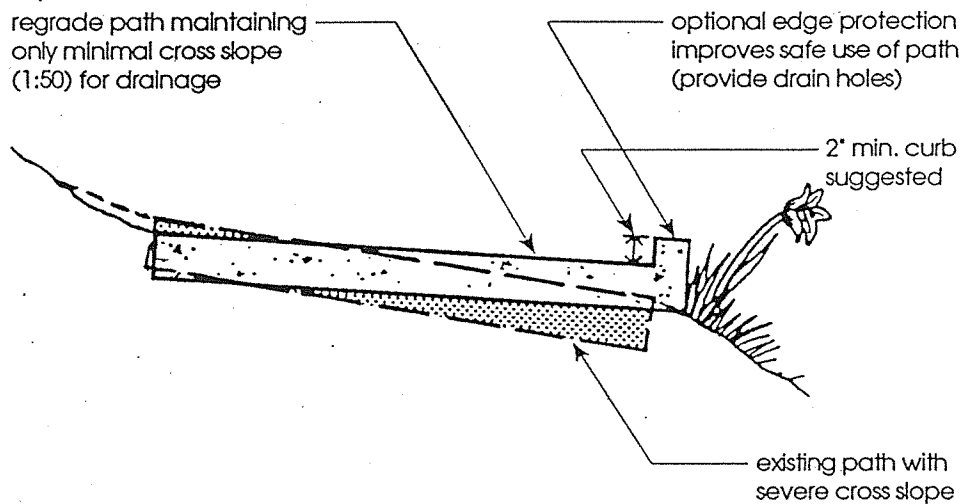
The maximum slope and cross slope tolerances are based on averages designed to accommodate the needs of wheelchair users as well as ambulatory people. The maximum slope for an unlimited walkway is 1:20. When slopes exceed this ratio, the effort required to travel along the path increases significantly, then it becomes a ramp and must meet multiple requirements for ramps. To keep the slope under 1:20 it may be possible to regrade and reroute the pathway which will be less expensive. An alternate solution may be to include short ramps in the steeper parts of the path maintaining less than 1:20 for the majority of the walkway.



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CROSS SLOPE EXCEEDS 1:50

A gradual incline, with a slight cross slope for drainage, minimizes the meets for the wheelchair use to compensate for side slipping as he/she attempts to maintain a straight path. Also a cross slope greater than 1:50 can disorient many pedestrians; if this is the case it should be leveled with only a slight slope to provide drainage.



Adjust Cross Slope

No level changes greater than 1/2" (unless ramped) is permitted on an accessible route. Ramps, curb ramps, platform lifts are acceptable means of accommodating large or small changes in level along the route.

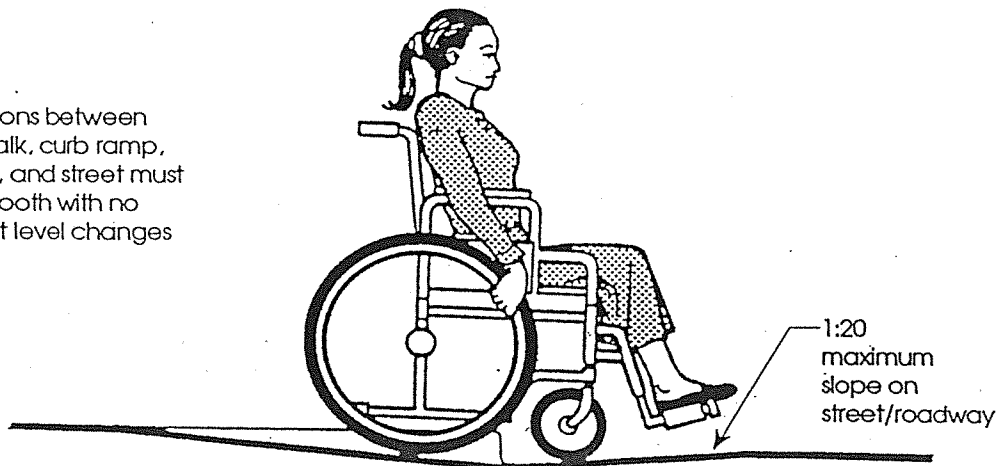
The accessible route must provide safe passage in the event of an emergency. For this reason it is extremely important that all doors are either exiting elements/devices along the route be designed for independent operation. Fire doors which are located on corridors to help contain smoke and fire are part of the accessible route which sometimes are also required to places of safe refuge.

CURB RAMPS

Curb ramps are intended to provide a smooth transition between side walks and roadways. There are several different types of curb ramps; flared ramps, returned ramps and built-up ramp. All three types of curb ramps must be at least 36" wide, provide a smooth transition from the walk to the street with no abrupt level change, and have a slope no greater than 1:12. The surface of the curb ramps must be stable, firm and slip resistant. The adjoining slope or the side walk or street should not exceed 1:20

Smooth Transition Between Sidewalk and Street

transitions between sidewalk, curb ramp, gutter, and street must be smooth with no abrupt level changes

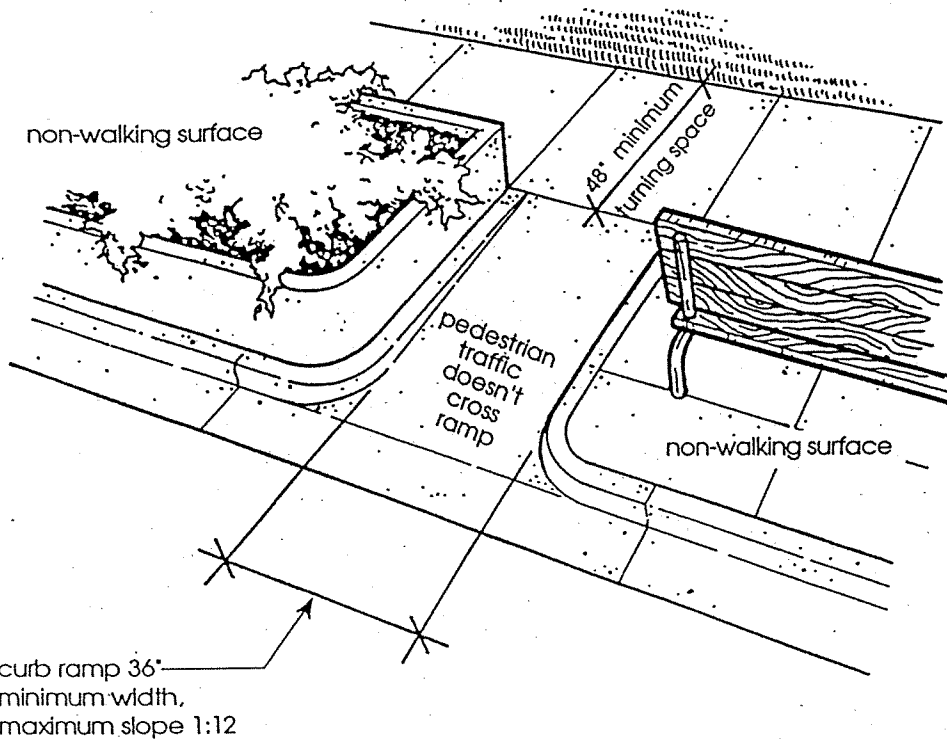


FLARED CURB

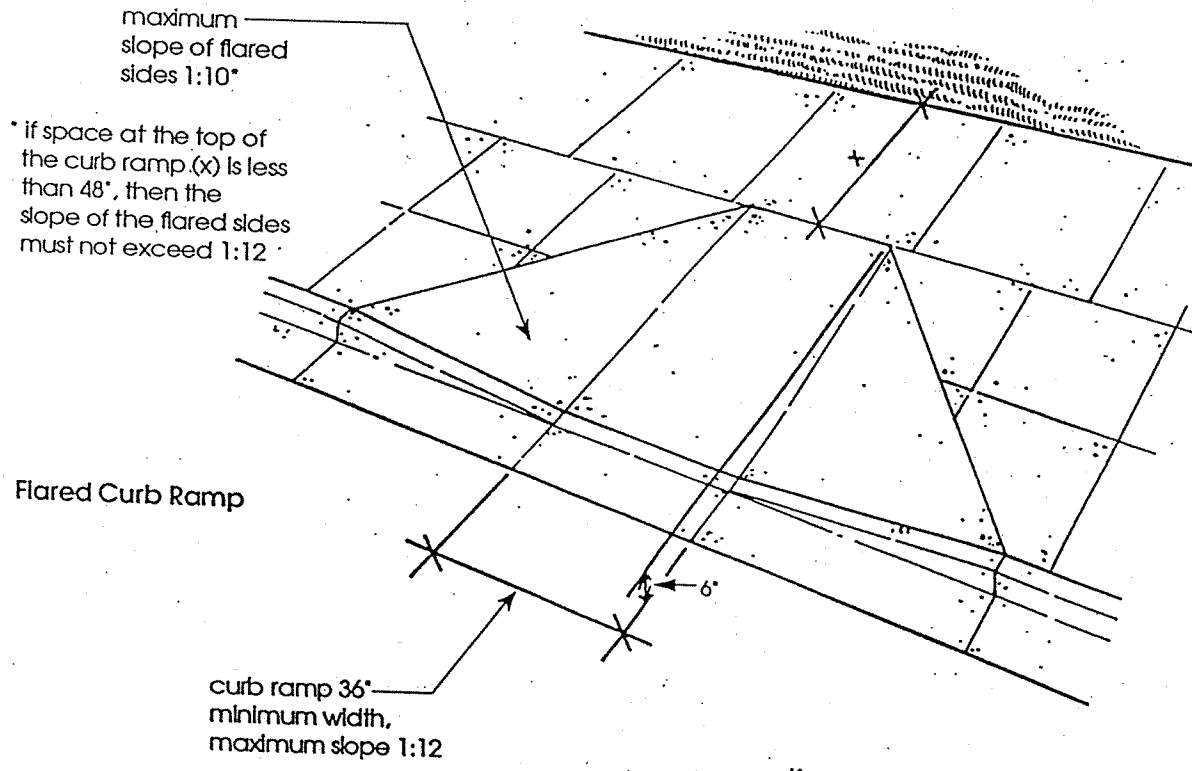
Flared curb ramps are the safest to use when pedestrian traffic must walk across the ramp. To maintain a safe walking surface, the maximum slope of the flared sides must not exceed 1:10. However if the space on the sidewalk at the top of the ramp is less than 48" the slope on the flared side may not exceed 1:12

RETURNED CURB RAMPS

Returned curb ramps may only be used when pedestrian traffic does not cross the ramp. They must be located adjacent to non walking surfaces as grass, shrubs, benches, and planters.

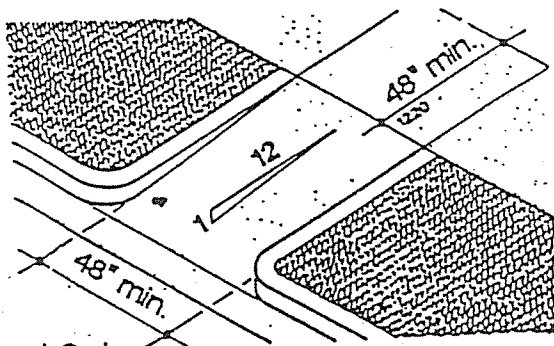
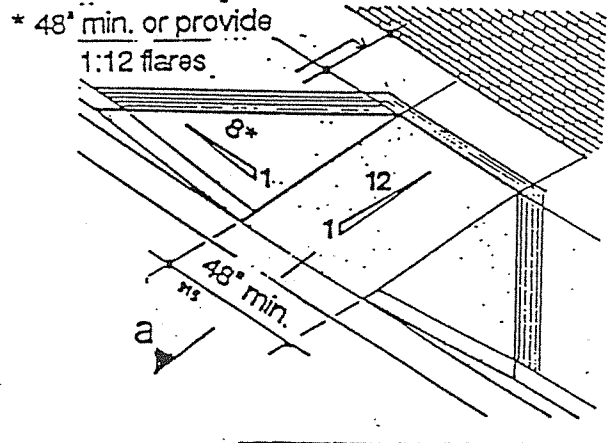
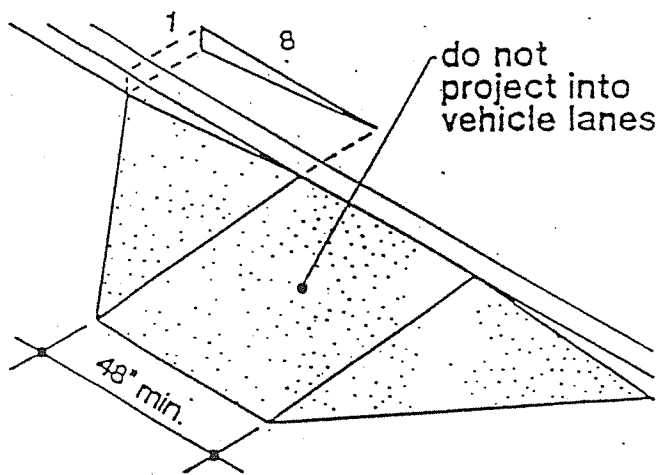
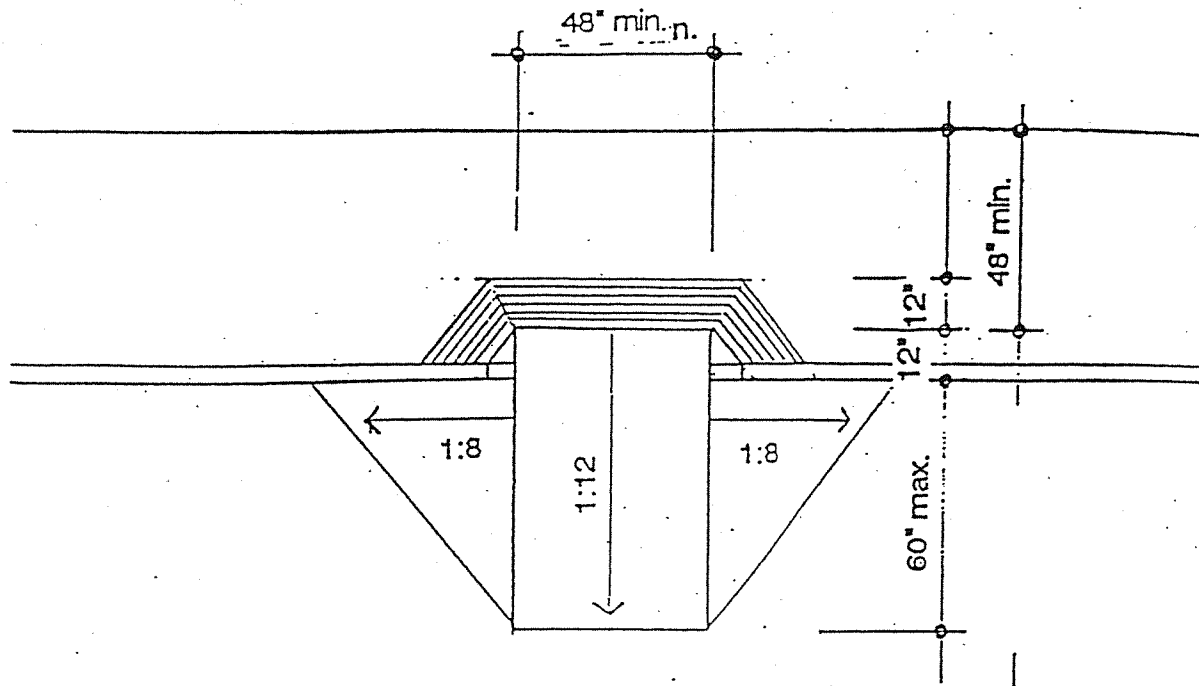


Returned Curb Ramp

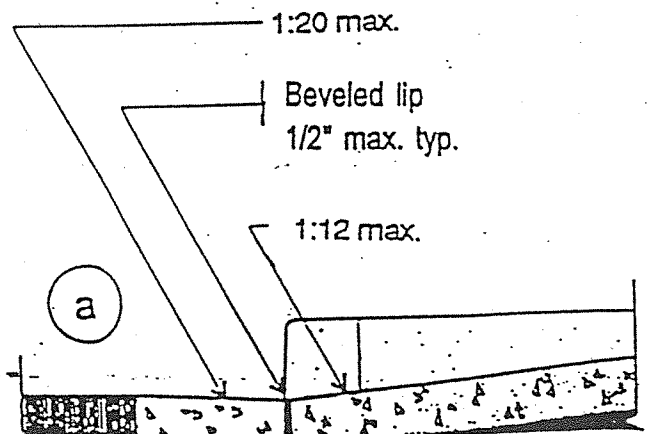


Flared Curb Ramp

If curb height is 6" then the minimum length of the curb ramp shall be 72" and the minimum lengths of the flared sides shall be 60" (if x is greater than 48")



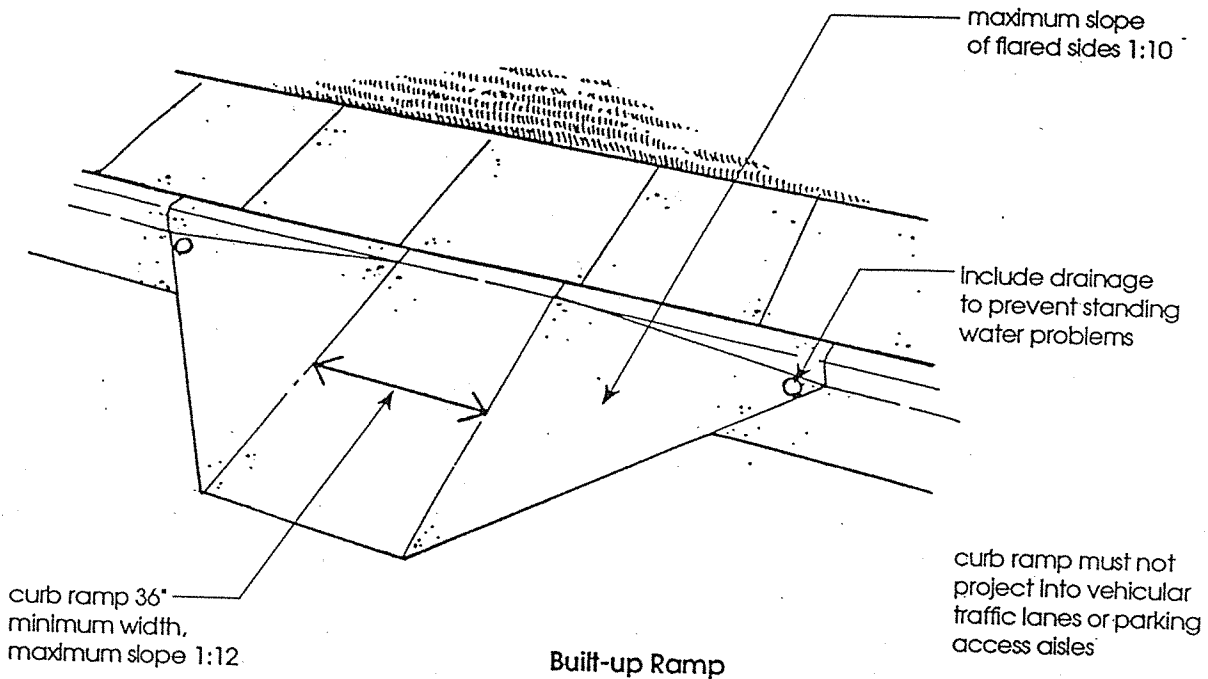
Returned Curb Style



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BUILT UP CURB

Built up curb ramps extend in to the street rather than cut in to the sidewalk. As with the flared ramp, the maximum running slope of the built-up ramp is 1:12 and 1:10 on the flared sides.



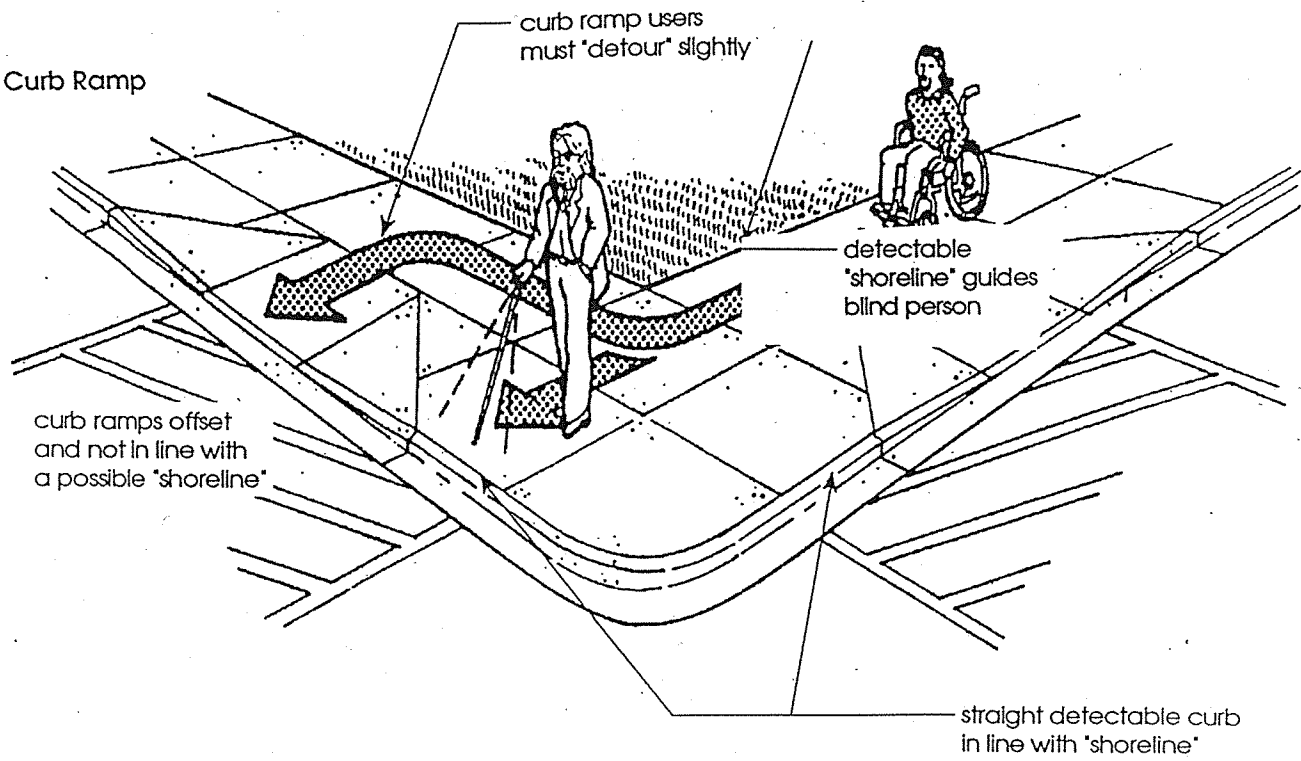
PLACEMENT OF CURB RAMPS

Curb ramps are required at all curbs along accessible routes. They must be protected or located away from moving vehicular traffic and obstruction by parked cars. By placing them away from the immediate corners at intersections curb ramps tend to be safer and facilitate the smooth flow of pedestrian traffic.

When the curb ramp is offset from the main flow of pedestrian traffic, it gives users the choice of using the curb ramp or stepping directly from the sidewalk to the street. Visually impaired and inattentive people are less likely to walk down a curb ramp and in to vehicular traffic when the ramp is set out of the direct flow of pedestrian traffic.

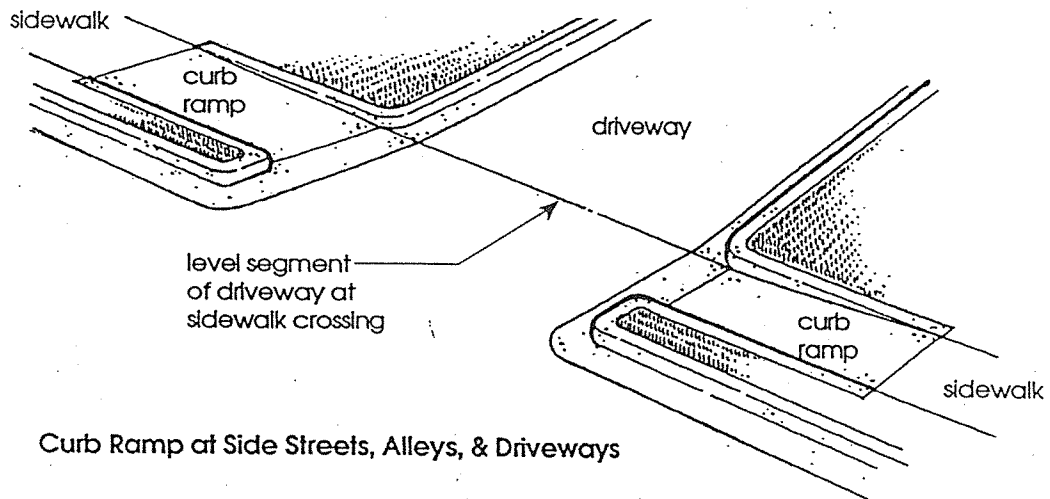
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Offset Curb Ramp

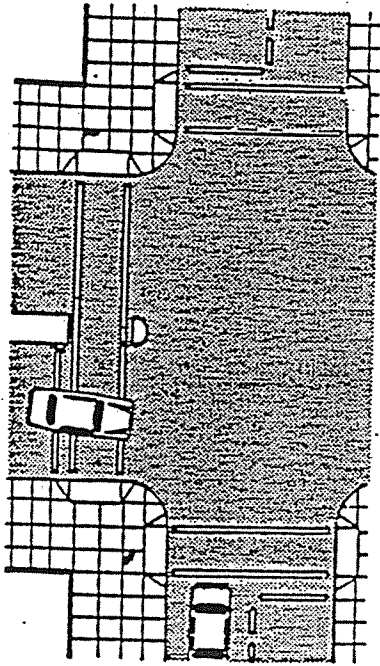


CURB RAMP AT SIDE STREET, ALLEYS & DRIVEWAYS

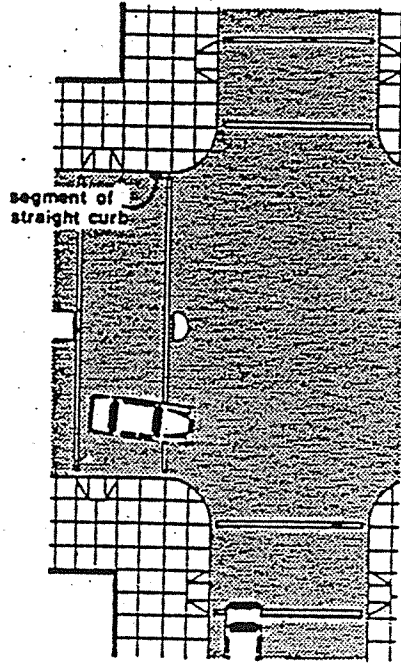
Side streets and driveways which intersect sidewalks should also contain curb ramps if necessary. Side walks are often continuous over driveways, but curb cuts may be necessary for smooth passage over side streets and alleys. If there is any level change it should not be greater than 1/4 inch.



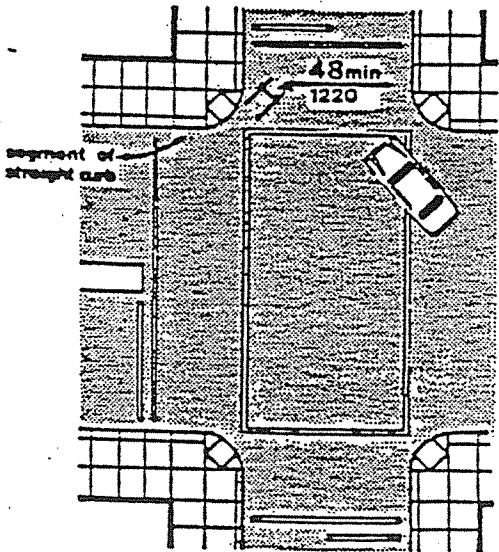
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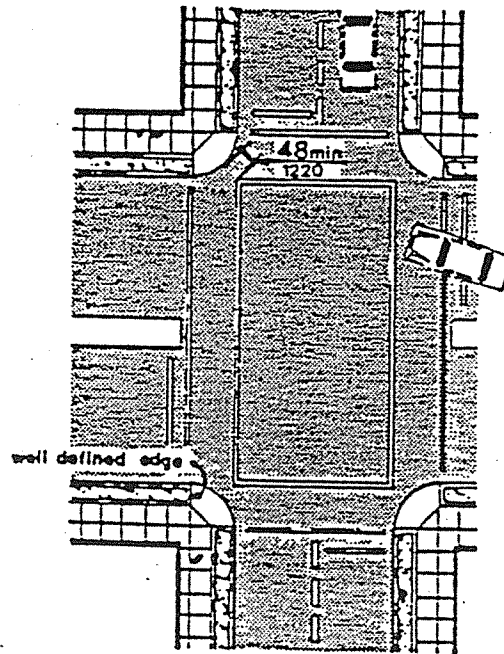
(a)



(b)



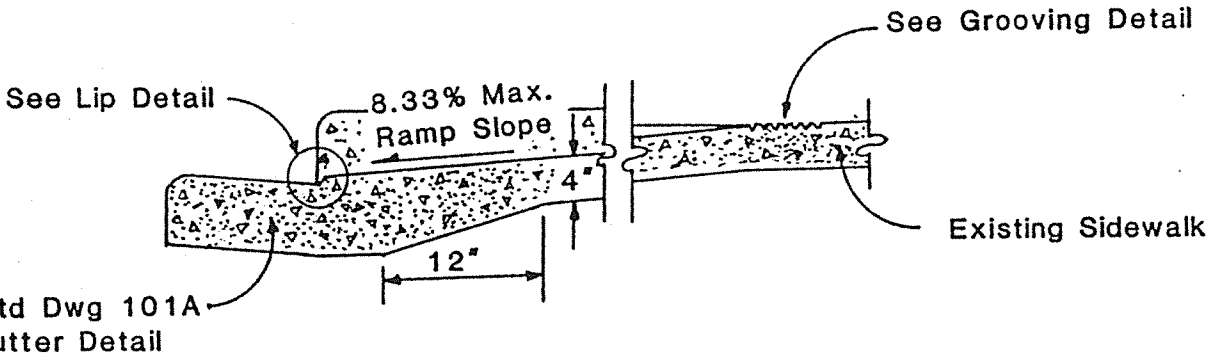
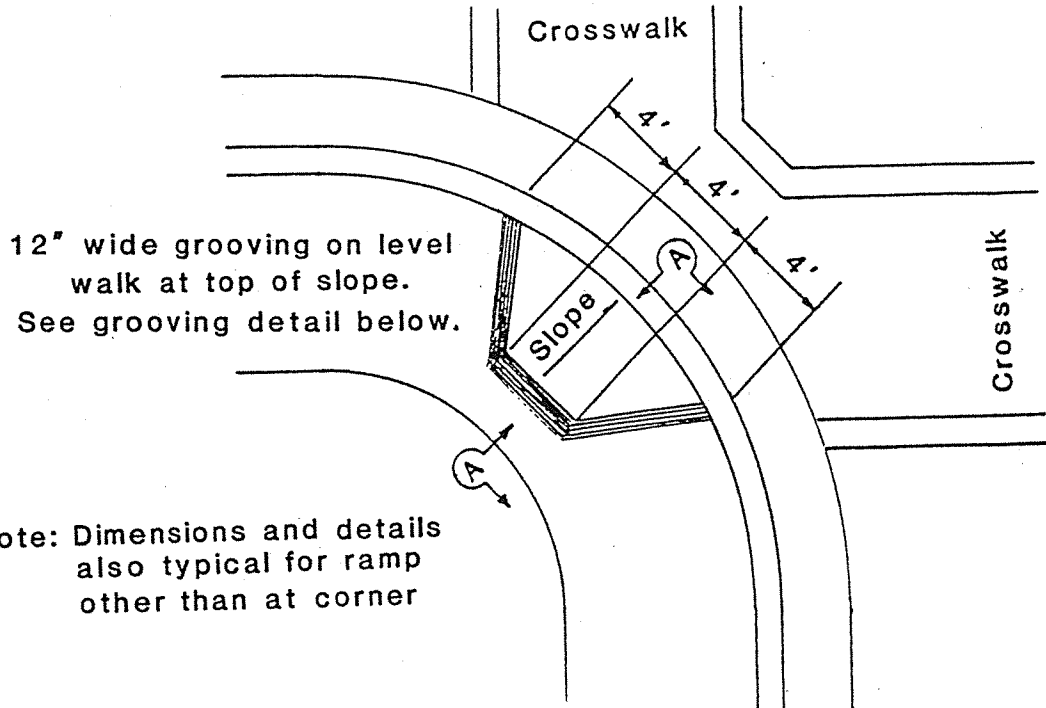
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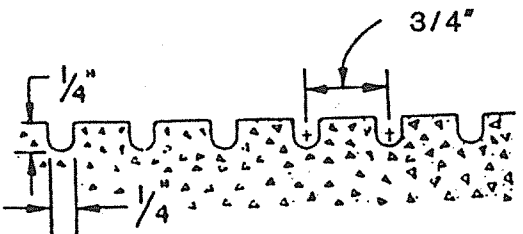
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Curb Ramps at Marked Crossings

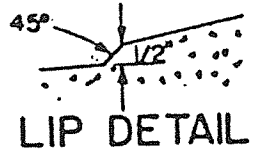




(A) RAMP SECTION



GROOVING DETAIL



LIP DETAIL

CITY OF
PACIFICA
C.D.& S.
ENGINEERING DIV.

STANDARD
HANDICAPPED
ACCESS RAMP
86

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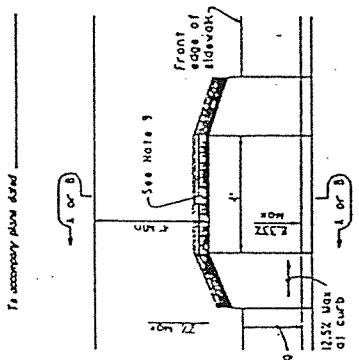
DATE: 10/11/92
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 APPROVED BY: [Signature]
 TITLE: CURB RAMP DETAILS NO. 1
 PROJECT: [Blank]

NOTES

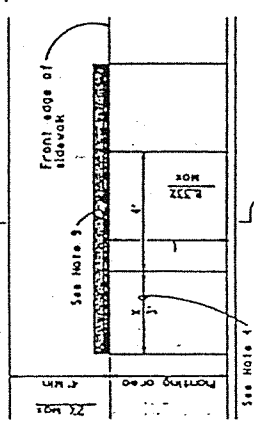
1. If distances from curb to back of sidewalk are too great to accommodate ramp and platform as in Case A, the sidewalk may be depressed longitudinally as in Case B or C or may be widened as in Case D.
2. If sidewalk is less than 5' wide, the full width of the sidewalk shall be depressed as shown in Case C.
3. When ramp is located in center of curb return, crosswalk configuration must be similar to that shown on the plan to accommodate wheelchair.
4. If planting area width is equal to or greater than ramp length, ramp slope shall be distance $\frac{1}{2}$ Case C.
5. For Cases F and G, the longitudinal portion of the sidewalk may need to be depressed as shown in Case B.
6. If located on a curve, the slope of the ramp need not be parallel but the minimum width of the ramp shall be 4'.
7. The bottom of the ramp shall have a $\frac{1}{4}$ " $\frac{1}{4}$ " lip at 45°.
8. Sidewalk and ramp thickness, "T", shall be $\frac{3}{4}$ ".
9. The ramp shall have a 12" wide bearing with $\frac{1}{4}$ " grooves approximately $\frac{1}{2}$ " on center. See grooving detail. The surface of ramp shall have a transverse beveled surface feature receptor than the surrounding sidewalk return, which located at center of curb return.
10. When ramp is located in center of curb return, it shall be grooved in a herringbone pattern with $\frac{1}{4}$ " grooves approximately $\frac{1}{2}$ " on center. See grooving detail. Grooves shall be signed parallel to crosswalk lines or parallel to the prolongation of curb when there are no crosswalk lines.
11. Ramp slope varies uniformly from a maximum of up to 0.32 at curb to conform with longitudinal sidewalk slope adjacent to top of the ramp, except in Cases C and G.
12. Utility poles, manholes, vaults and other utility facilities within the boundaries prior to, or in conjunction with, curb ramp construction.

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION
**CURB RAMP
 DETAILS NO. 1**
 NO SCALE

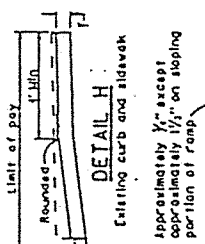
NEW STANDARD PLAN NSP A88



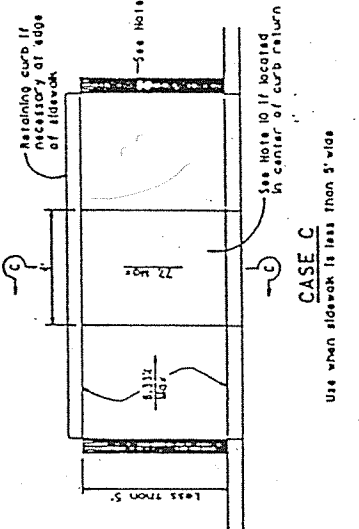
CASE F
See Note 3



CASE G
See Note 3

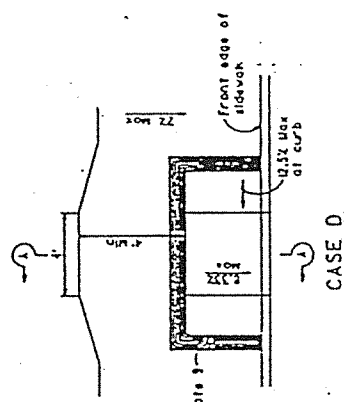


CASE H
See Note 3

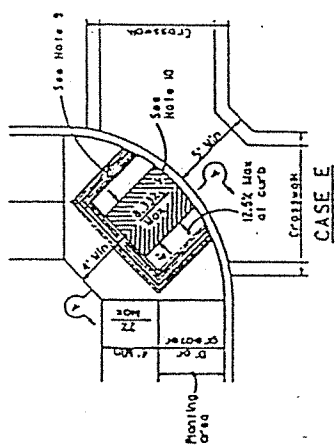


CASE C

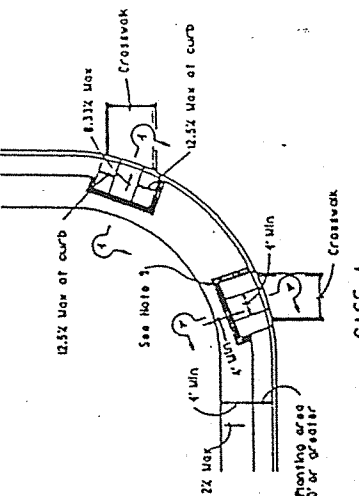
Use when sidewalk is less than 5' wide



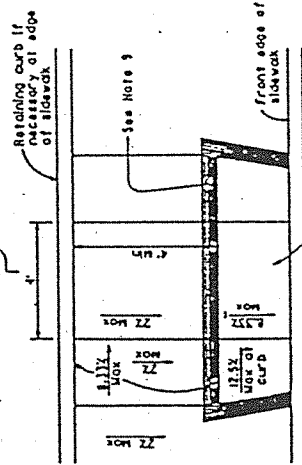
CASE D



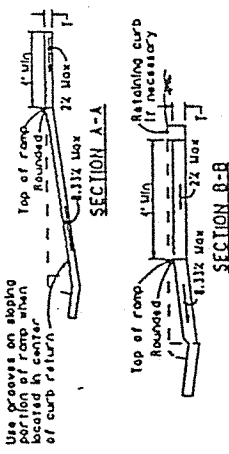
CASE E



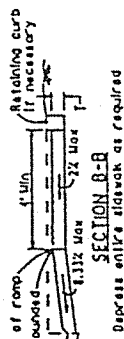
CASE A



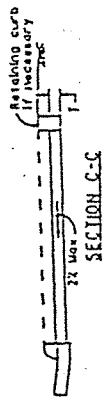
CASE B



SECTION A-A



SECTION B-B

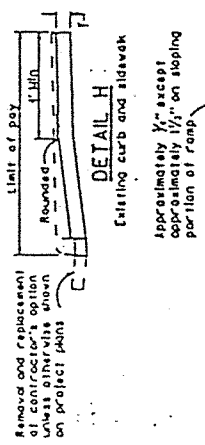


SECTION C-C

Use grooves on sloping portion of ramp when curb return is center of curb return

Retaining curb if necessary at edge of sidewalk as required

Retaining curb if necessary at edge of sidewalk

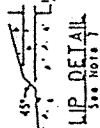


DETAIL H

Approximately $\frac{1}{4}$ " except approximately $\frac{1}{2}$ " on sloping portion of ramp



GROOVING DETAIL



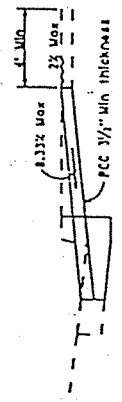
LIP DETAIL
See Note 3

1992 Std 2/2

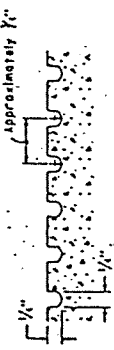
DATE	COMMIT	ROUTE	POST	SCALE	NO.

Approved by: *[Signature]*
 DIVISION OF HIGHWAYS
 JULY 1, 1937
 COUNTY OF CALIFORNIA

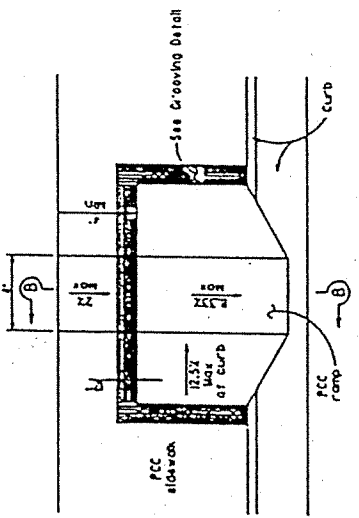
To accompany plan sheet _____



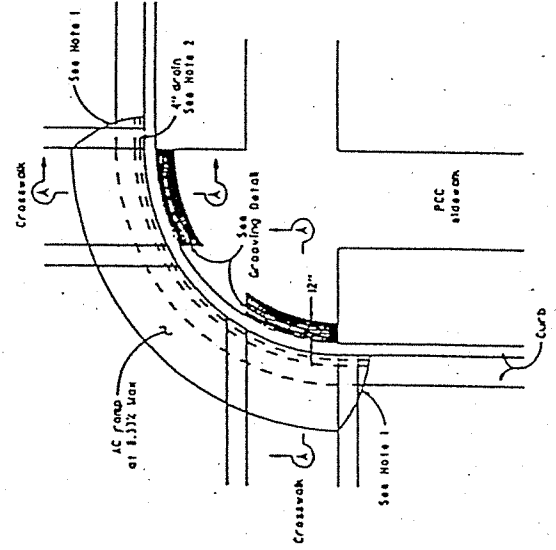
SECTION B-B



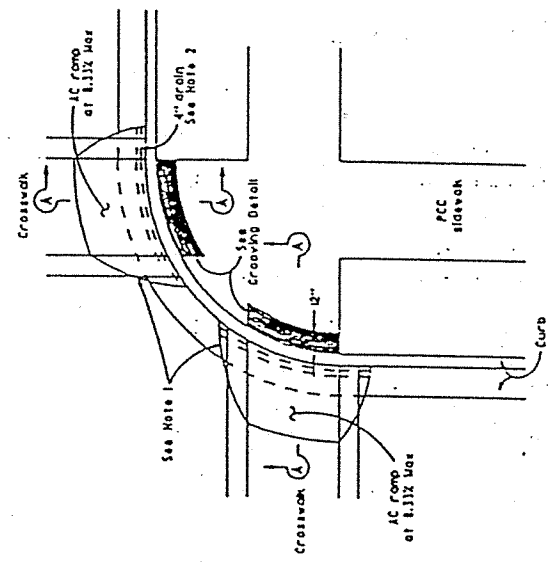
GROOVING DETAIL



CASE 1



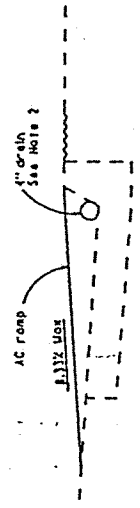
CASE 2



CASE 3

NOTES

1. AC ramp side slopes shall be a maximum of 3%.
2. 4" drain shall be 0.25" minimum thickness steel pipe. Pipe shall conform to radius of curb and be beveled to conform to side slope.
3. Concrete finish for Case 3 shall have a transverse broomed surface texture rougher than the surrounding sidewalk.
4. Utility poles, manholes, vaults, and all other utility facilities within the boundaries of the curb ramp shall be relocated by others prior to, or in conjunction with, curb ramp construction.



SECTION A-A

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION
CURB RAMP DETAILS NO. 2
 NO SCALE
NEW STANDARD PLAN NSP A89

1994 "St." 1/2

DATE	COUNTY	ROUTE	POST MILE	POST MILE	POST MILE

DESIGNED BY: CIVIL ENGINEER

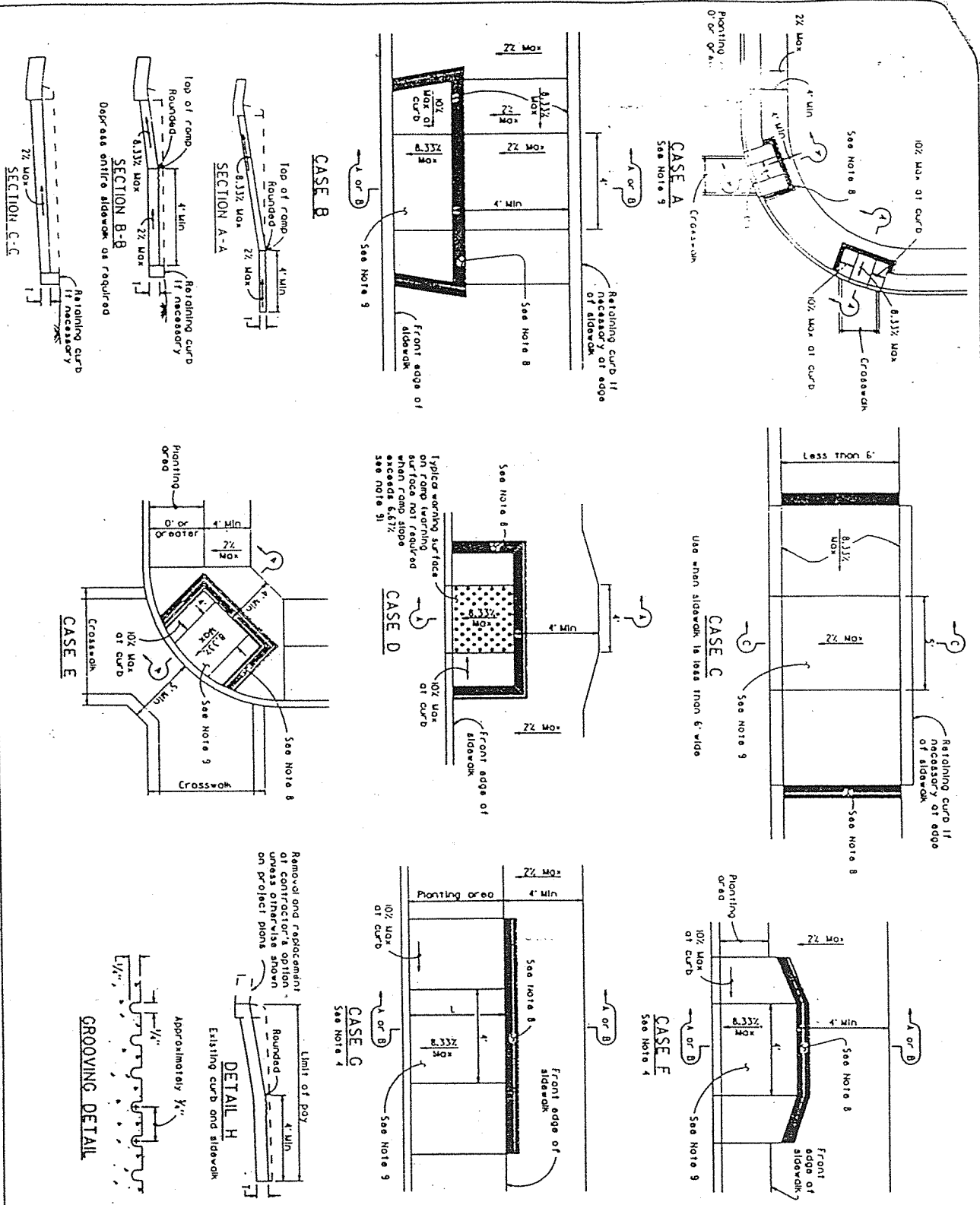
DATE APPROVAL: DATE

APPROVED: [Signature]

DATE: [Date]

NOTES

1. If distance from curb to back of sidewalk is too short to accommodate ramp and 4' pit form as in Case A, the sidewalk may be depressed longitudinally as in Case B or C or may be widened as in Case D.
2. If sidewalk is less than 6' wide, the full width of the sidewalk shall be depressed as shown in Case C.
3. When ramp is located in center of curb return, crosswalk configuration must be similar to that shown for Case E to accommodate wheelchairs.
4. For Cases F and G, the longitudinal portion of the sidewalk may need to be depressed as shown in Case B.
5. If located on a curve, the sides of the ramp need not be parallel, but the minimum width of the ramp shall be 4'.
6. Transitions from ramps to walk, gutters, or curbs shall be flush and free of bumps.
7. Sidewalk and ramp thickness, "T", shall be 3 1/2".
8. The ramp shall have a 1/2" wide border with 1/2" grooves approximately 1/2" on center. See grooving detail.
9. Curb ramps that have a ramp slope equal to or greater than 6.81% shall have a detectable warning surface that extends the full width and depth of the ramp. The detectable warning surface shall consist of raised truncated domes (see detail on sheet C-2).
10. When detectable warning surface is not required on a curb ramp, the concrete finish of the ramp shall have a texture similar to that of the surrounding sidewalk, but a rougher than the surrounding sidewalk.
11. Ramp slope shall be uniform from a maximum of up to 10% at curb to conform to top of the ramp, except in Case C.
12. Utility cut boxes, manholes, vaults and all other utility facilities within the boundaries of the curb ramp will be relocated by others prior to, or in conjunction with, curb ramp construction.
13. Maximum slopes of adjoining gutters, the road surface immediately adjacent to the curb ramp and accessible routes of travel to the curb ramp shall not exceed 5 percent within 4 feet of the top or bottom of the curb ramp.



CONSTRUCTION DETAILS (CURB RAMP)

NO SCALE

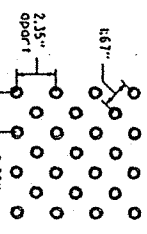
C-1

UNIFORM 22, 2011a
 O&H FILE 22 / 11/17/2011/10/10/00111111

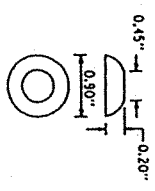
1994 "Std" 2/

POST MILEAGE	POST MILEAGE	POST MILEAGE	POST MILEAGE
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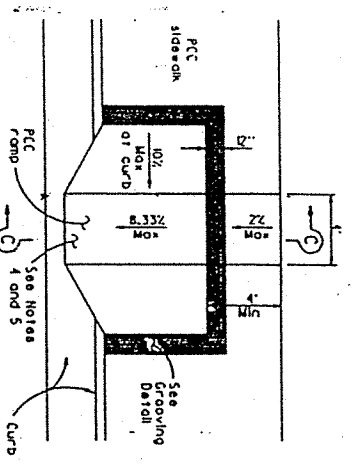
REGISTERED CIVIL ENGINEER
 DATE: _____
 FIRM APPROVAL DATE: _____



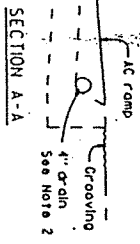
RAISED TRUNCATED DOME PATTERN



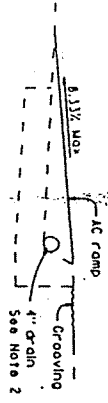
RAISED TRUNCATED DOME DETECTABLE WARNING SURFACE
 See Note 5



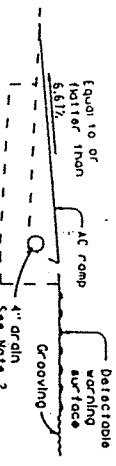
CASE 3



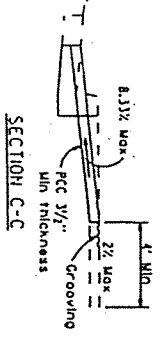
SECTION A-A



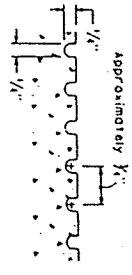
SECTION B-B



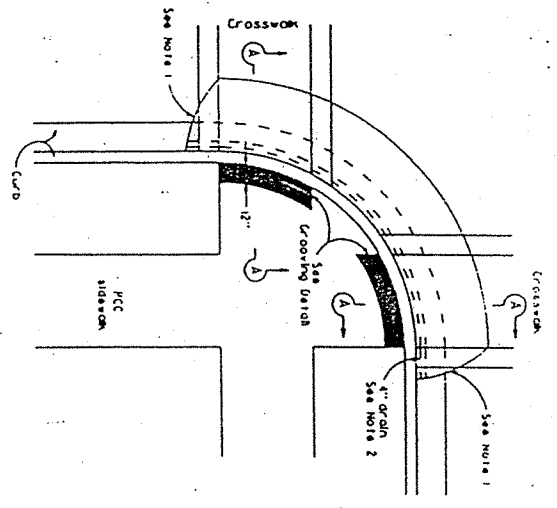
SECTION B-B



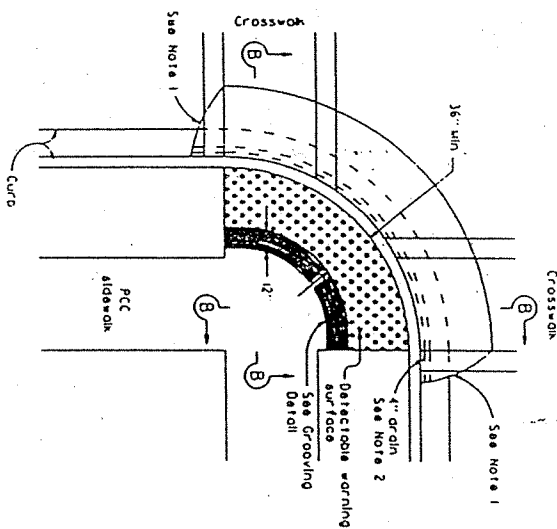
SECTION C-C



GROOVING DETAIL



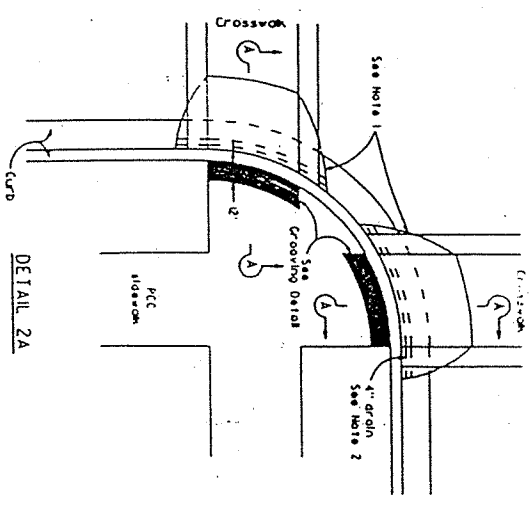
DETAIL 1A



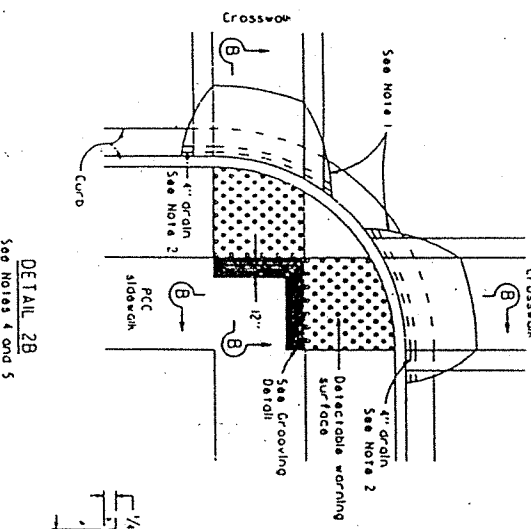
DETAIL 1B

See Notes 4 and 5

CASE 1



DETAIL 2A



DETAIL 2B

See Notes 4 and 5

CASE 2

- NOTES**
1. AC ramp slope shall not exceed 10%.
 2. 4" drain shall be 0.33" minimum thickness steel pipe, pipe shall conform to radius of curb and be beveled to conform to side slope.
 3. Utility pull boxes, manholes, vaults, and all other utility facilities within the boundaries of the curb ramp will be allocated by others prior to, or in conjunction with, curb ramp construction.
 4. Curb ramps that have a ramp slope equal to or flatter than 6.67 percent shall have a detectable warning surface, the detectable warning surface for Case 3 ramps shall extend the full width and depth of the ramp.
 5. Detectable warning surfaces, or the option of the contractor, shall be constructed by cast-in-place or formed method, or consist of a prefabricated surface. The prefabricated surface shall conform to the requirements in the special provisions.
 6. When detectable warning surface is not required on Case 3 ramps, the concrete finish for Case 3 ramps shall have a transverse broomed surface texture rougher than the surrounding sidewalk.
 7. Maximum slopes of adjoining gutters, the road surface immediately adjacent to the curb ramp and accessible routes of travel to the curb ramp shall not exceed 5 percent within 4 feet of the top or bottom of the curb ramp.

CONSTRUCTION DETAILS (CURB RAMP)
 NO SCALE

ATTACHMENTS

CAUTION

A series of smaller alterations cannot be used to circumvent path-of-travel obligations. The total costs of alterations to primary function areas during a three-year period after January 26, 1992 will be considered in determining the proportionality of path-of-travel costs.³²

The path-of-travel requirement applies *only* to the entity that is making the alteration. For instance, alterations made by a tenant on its own premises will *not* trigger a path-of-travel obligation on the part of the landlord in areas of the facility under the landlord's authority that are not otherwise being altered.³³

[c]—Elevators and Historic Buildings. The elevator exemption for alterations is essentially the same as the elevator exemption for new construction (*see* § 9.02[3] *supra*). The principal difference is that in altering an existing facility that is not eligible for the statutory exemption, the path-of-travel rules apply. In other words, the entity responsible for the alteration is not required to install an elevator if the installation of an elevator would be disproportionate in cost and scope to the cost of the overall alteration. In addition, ADAAG provides that installation of an elevator in an altered facility is not required if it is "technically infeasible."³⁴

Facilities eligible for listing in the National Register of Historic Places must comply with the alterations requirements of the ADA to the maximum extent feasible. To the extent compliance in the normally prescribed manner is not feasible, alternative methods of access must be provided to individuals with disabilities.³⁵

³² 28 C.F.R. § 36.403(h), 56 Fed. Reg. 35,544, 35,601 (1991).

³³ 28 C.F.R. § 36.403(d), 56 Fed. Reg. 35,544, 35,601 (1991); Analysis, 56 Fed. Reg. 35,544, 35,582 (1991).

³⁴ Also, the definition of "shopping center or shopping mall" is slightly different for purposes of alterations from the definition adopted for purposes of new construction. *See* 28 C.F.R. § 36.404, 56 Fed. Reg. 35,544, 35,601 (1991); Analysis, 56 Fed. Reg. 35,544, 35,583-35,584 (1991).

³⁵ 28 C.F.R. § 36.405, 56 Fed. Reg. 35,544, 35,601 (1991).

[5]—Employee Areas

While employees are the main beneficiaries of Title I's protections, Title III contemplates that new facilities and alterations will be accessible to both to non-employees and employees. With respect to employees, Title III requires that newly constructed or altered employee work areas and "common use" areas, other than individual work stations, must meet its accessibility requirements. In such cases, employee lounges, cafeterias, health units, and exercise facilities must conform to the ADAAG standards. The new construction and alterations provisions were designed to ensure that both patrons *and* employees can get to, enter and use the facility.³⁶ Therefore, employee work areas may be considered primary function areas for purposes of path-of-travel obligations.³⁷

§ 9.03 Prohibition Against Discrimination by Public Accommodations**[1]—"Place of Public Accommodation"**

A "place of public accommodation" is a facility, operated by a private entity, whose operations affect commerce and fall within at least one of twelve categories:¹

- (1) Inns, hotels, motels, and other *places of lodging* except for establishments located within buildings that contain five or fewer rooms for rent or hire and that are actually occupied by the proprietor as the proprietor's residence;
- (2) A restaurant, bar, or other *establishment serving food or drink*;
- (3) A motion picture house, theater, concert hall, stadium, or other *place of exhibition or entertainment*;
- (4) An auditorium, convention center, lecture hall, or other *place of public gathering*;
- (5) A bakery, grocery store, clothing store, hardware store, shopping center, or other *sales or rental establishment*;

³⁶ Analysis, 56 Fed. Reg. 35,544, 35,576-77 (1991).

³⁷ Analysis, 56 Fed. Reg. 35,544, 35,582 (1991).

¹ 42 U.S.C. § 12181(7), ADA § 301(7); 28 C.F.R. § 36.104, 56 Fed. Reg. 35,544, 35,594 (1991).

- (6) A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other *service establishment*;
- (7) A terminal, depot, or other *station used for specified public transportation*;
- (8) A museum, library, gallery, or other *place of public display or collection*;
- (9) A park, zoo, amusement park, or other *place of recreation*;
- (10) A nursery school or an elementary, secondary, undergraduate, or postgraduate private school, or other *place of education*;
- (11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other *social service center establishment*; and
- (12) A gymnasium, health spa, bowling alley golf course, or other *place of exercise or recreation*.

The legislative history of the ADA indicates that these twelve categories are "exhaustive," but within each category only a few examples are listed. Hence, the fact that a particular establishment or entity is not listed as an example does not mean that it is not a place of public accommodation. For instance, the statute does not list tennis courts, basketball courts, swimming pools, or aerobics facilities as examples of places of exercise or recreation. Nevertheless, these entities would still be included in this category and would be governed by Title III.²

A business that generally does not serve the public might operate a place of public accommodation incidental to its primary operation. For example, a factory's retail outlet is a place of public accommodation as is any activity through which the public can tour operations or participate in conferences, exhibits and displays.³

² S. Rep. No. 116, 101st Cong., 1st Sess. at 59 (1989) (Senate Committee on Labor and Human Resources).

³ Analysis, 56 Fed. Reg. 35,544, 35,551-52, 35,556 (1991).

[2]—Prohibition Against Discrimination

Title III prohibits any individual with a disability from being discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity that owns, leases (or leases to), or operates a place of public accommodation.⁴

“Full and equal enjoyment” means the right to participate and to the extent possible to have an equal opportunity to obtain the same results as others.⁵ For example, an amusement arcade may need to provide accessible video machines to ensure full and equal enjoyment of its facilities and to provide individuals with disabilities an opportunity to participate in the services provided. And although Title III’s emphasis is on removal of barriers and other physical factors, there is a non-physical component in its non-discrimination requirement. Thus, a public accommodation cannot refuse to serve a person with a disability because its insurance company conditions coverage or rates on the absence of persons with disabilities.⁶

EXAMPLES

Examples of prohibited discriminatory conduct set forth in the legislative history include the following:

- A grocery store’s rule prohibiting sight-impaired individuals from entering the store.
- A department store’s credit card application form that asks if the applicant has epilepsy, was hospitalized for a disability, or has a disability.
- A movie theater’s rule that a person in a wheelchair be chaperoned.
- A bank’s check-cashing requirement that a person have a driver’s license I.D., which would screen out

⁴ 42 U.S.C. § 12182(a), ADA §302(a); 28 C.F.R. §§ 36.201, 36.203, 56 Fed. Reg. 35,554, 35,595 (1991). Title III, like Title I, also prohibits discrimination against a non-disabled individual because of that person’s association with an individual with a disability. 42 U.S.C. § 12182(b)(1)(E), ADA § 302(b)(1)(E).

⁵ Analysis, 56 Fed. Reg. 35,544, 35,555 (1991).

⁶ Analysis, 56 Fed. Reg. 35,544, 35,557 (1991).

persons with visual impairments.⁷

NOTE

The "full and equal employment" standard does not require that persons with disabilities achieve the same result or level of achievement as non-disabled persons. It means only that persons with disabilities must be afforded an equal opportunity to obtain the same result.⁸

A public accommodation may not provide disabled people with goods or services different or separate from those provided to others.⁹ The only exception arises where specific action is necessary to provide as effective an opportunity as is provided to others.¹⁰ Also, goods and services must be provided in the most integrated setting that is appropriate and possible.¹¹ It would be a violation of Title III to require persons with mental disabilities to eat in the back room of a restaurant or to refuse to allow a person with a disability the full use of a health spa because of stereotypes about the person's ability to participate.¹² Separate programs are only permitted when a more integrated setting would genuinely not be "appropriate."¹³

Discriminatory eligibility criteria are banned by the ADA.¹⁴ In particular, *the wishes, tastes, or preferences of other customers may not be asserted to justify criteria that would exclude or segregate individuals with disabilities*. In certain circumstances, a public accommodation may impose neutral rules and criteria

⁷ S. Rep. No. 116, 101st Cong., 1st Sess. at 62 (1989) (Senate Committee on Labor and Human Resources).

⁸ *Id.* at 60.

⁹ 42 U.S.C. § 12182(b)(1)(A), ADA § 302(b)(1)(A).

¹⁰ 28 C.F.R. § 36.202, 56 Fed. Reg. 35,544, 35,595 (1991).

¹¹ 42 U.S.C. § 12182(b)(1)(B), ADA § 302(b)(1)(B); 28 C.F.R. § 36.203(a), 56 Fed. Reg. 35,544, 35,595 (1991).

¹² See S. Rep. No. 116, 101st Cong., 1st Sess. at 60-61 (1989) (Senate Committee on Labor and Human Resources); Analysis, 56 Fed. Reg. 35,544, 35,557 (1991).

¹³ Analysis, 56 Fed. Reg. 35,544, 35,558 (1991).

¹⁴ 42 U.S.C. § 12182(b)(2), ADA § 302(b)(2); 28 C.F.R. § 36.301, 56 Fed. Reg. 35,544, 35,596 (1991).

that screen out, or tend to screen out, individuals with disabilities. But in order to be valid, these neutral criteria must be necessary for the safe operation of the public accommodation. In this regard, eligibility or safety standards established by a public accommodation must satisfy three requisites:¹⁵

- The standard must be based on actual risk, not speculation or stereotypes;
- The standard must be applied to all clients or customers; and
- In applying the standard, all inquiries of persons with disabilities must be limited to matters necessary to the standard's application.

Thus, an amusement park may have height requirements for certain rides, where a minimum height is necessary for the ride's safe operation, even though the requirement would screen out persons who are dwarfs or midgets.¹⁶

A public accommodation is prohibited from going further than is necessary to identify the existence of a disability. It is also prohibited from imposing requirements or burdens on individuals with disabilities that are not placed on others. For example, public accommodations in most circumstances may not require that an individual with a disability be accompanied by an attendant. But a public accommodation is not required to provide services of a personal nature, such as assistance in toileting, eating or dressing.¹⁷

A public accommodation may not place a surcharge on a particular disabled individual or any group of individuals to cover the costs of accommodating measures, such as the following:¹⁸

- The provision of auxiliary aids and services;
- Barrier removal;
- Alternatives to barrier removal; and

¹⁵ Analysis, 56 Fed. Reg. 35,544, 35,558 (1991).

¹⁶ H.R. Rep. No. 485, Part 3, 101st Cong., 2d Sess. at 58 (House Judiciary Committee).

¹⁷ Analysis, 56 Fed. Reg. 35,544, 35,564 (1991).

¹⁸ 28 C.F.R. § 36.301(c), 56 Fed. Reg. 35,544, 35,596 (1991).

- Reasonable modifications in policies, practices, and procedures that are needed to provide an individual or group with the nondiscriminatory treatment required by the ADA.

However, the ADA only prohibits charges for those measures necessary to achieve compliance with the ADA. A public accommodation may charge for extra services beyond those required by the Act. Further, deposits are not considered prohibited surcharges as long as they are reasonable and completely refundable.¹⁹

[3]—Reasonable Modifications in Policies, Practices or Procedures

In addition to prohibiting a public accommodation from taking adverse actions against individuals with disabilities, Title III requires affirmative undertakings to accommodate disabled persons. Public accommodations must make reasonable modifications in policies, practices, or procedures, “when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities.” The only exception to the requirement is where the public accommodation can demonstrate that making the modifications would “fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.”²⁰ Reasonable modifications in policies, practices, or procedures may include allowing the use of service animals, such as guide dogs, and ensuring that an adequate number of accessible retail check-out aisles are kept open.²¹ Also, a parking facility would be required to modify a rule barring all vans or all vans with raised roofs, (which oftentimes are used by individuals with mobility impairments), if overhead structures are high enough.²²

¹⁹ Analysis, 56 Fed. Reg. 35,544, 35,564 (1991).

²⁰ 42 U.S.C. § 12182(b)(2)(A)(ii), ADA § 302(b)(2)(A)(ii); 29 C.F.R. § 36.302, 56 Fed. Reg. 35,554, 35,596-97 (1991).

²¹ S. Rep. No. 116, 101st Cong., 1st Sess. at 63 (1989) (Senate Committee on Labor and Human Resources); 28 C.F.R. § 36.302, 56 Fed. Reg. 35,544, 35,596-97; Analysis, 56 Fed. Reg. 35,544, 35,564-65 (1991).

²² Analysis, 56 Fed. Reg. 35,544, 35,564 (1991).

[4]—Auxiliary Communication Aids and Services

Under the Department of Justice regulations, a public accommodation must ensure that no individual with a disability is “excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services.”²³ Aids or services must be provided unless their provision would fundamentally alter the nature of the goods, services, or facilities, or would result in an “undue burden.” The concept of “undue burden” in Title III is the same as “undue hardship” in Title I and is defined as a “significant difficulty or expense.”²⁴

Implicit in this duty is the underlying obligation of a public accommodation to communicate effectively with those of its customers, clients, patients, or participants who have disabilities affecting hearing, vision, or speech.²⁵ Examples of auxiliary aids and services that might have to be provided include:²⁶

- Interpreters;
- Transcription services;
- Written materials;
- Assistive listening measures;
- Closed caption decoders;
- Telecommunications devices for deaf persons (TDD’s);
- Videotext displays;
- Audio records;
- Brailled materials; and
- Large print materials.

Auxiliary aids and services are those designed to provide effective communications — in other words, to make aurally and visually delivered information available to persons with hearing, speech, or vision impairments. A public accommodation can

²³ 42 U.S.C. § 12182(b)(2)(A)(iii), ADA § 302(b)(2)(A)(iii); 28 C.F.R. § 36.303(a), 56 Fed. Reg. 35,554, 35,597 (1991).

²⁴ *Id.* “Undue hardship” is discussed in Chapter 7, *supra*.

²⁵ Analysis, 56 Fed. Reg. 35,544, 35,565.

²⁶ 28 C.F.R. § 36.303(b), 56 Fed. Reg. 35,544, 35,597 (1991); Analysis, 56 Fed. Reg. 35,544, 35,565-66 (1991).

choose among various alternative aids and services as long as the result is effective communication. For example, a restaurant would not be required to provide menus in braille for patrons who are blind if the waiters in the restaurant are available to read the menu.²⁷ Similarly, a clothing store need not have brailled price tags if the store has sales persons who can inform the disabled customer of the prices of the merchandise.²⁸

A public accommodation is *not* required to provide its customers, clients, or participants with personal devices (such as wheelchairs), individually-prescribed devices (such as prescription eyeglasses or hearing aids), or services of a personal nature (such as assistance in eating, toileting, or dressing).²⁹

A public accommodation that offers outgoing telephone calls on more than an incidental convenience basis must make a TDD available on request. And where entry to a place of public accommodation requires the use of a security entrance telephone, a TDD or other effective means of communication must be provided for use by an individual with impaired hearing or speech. But a public accommodation is not required to provide a TDD for receiving or making telephone calls where phone calls are merely incidental to its operations.³⁰

Movie theaters are not required to present open-captioned films, but other public accommodations that impart verbal information through soundtracks on films, video tapes, or slide shows must make this information accessible to persons with hearing impairments. Captioning is one means to make the information accessible to individuals with disabilities. A hotel conference center may have to provide permanent or portable assistive listening systems for persons with hearing impairments. Also, places of lodging that provide televisions in five or more guest rooms and hospitals that provide televisions in patient rooms must provide closed caption decoding devices on request.³¹

²⁷ Analysis, 56 Fed. Reg. 35,544, 35,566 (1991).

²⁸ See Analysis, 56 Fed. Reg. 35,544, 35,566 (1991).

²⁹ 28 C.F.R. § 36.306, 56 Fed. Reg. 35,544, 35,598 (1991).

³⁰ 28 C.F.R. § 36.303, 56 Fed. Reg. 35,544, 35,597 (1991); Analysis, 56 Fed. Reg. 35,544, 35,567 (1991).

³¹ 28 C.F.R. § 36.303, 56 Fed. Reg. 35,544, 35,597 (1991); Analysis, 56 Fed. Reg. 35,544, 35,567 (1991). As of July 1, 1993, the Television Decoder

A particular auxiliary aid or service need not be provided if it would cause a fundamental alteration of the goods, services, or facilities of the public accommodation or create an undue burden. In this event, a public accommodation must still provide alternative aids or services that give equal access to disabled individuals to the maximum extent possible.³²

PRACTICE POINTER

A public accommodation needs to ensure that its employees are properly trained to deal with and accommodate individuals with disabilities. For example, if a restaurant does not have menus in braille, the restaurant may need to train its waiters to read the menu to persons who are blind.³³ Where a department store has items not accessible to mobility-impaired persons, the store owner may have to establish a procedure whereby employees will readily obtain the items and show them to customers in wheelchairs. Similarly, the owner of an office building may have to train the building doorman or guard upon request to show to the elevator a person who is blind or to write to a person who is deaf a note that indicates the floor number of a particular office.³⁴

[5]—Immediate Barrier Removal

In addition to modifying policies and practices and providing auxiliary aids, a public accommodation may also have to remove physical barriers and make physical changes in its facility. Title III requires that places of public accommodation remove

Circuitry Act of 1990, Pub. L. No. 101-431, 104 Stat. 960 (*codified at* 47 U.S.C. § 303(u)), requires that all televisions with screens of 13 inches or wider have built-in decoder circuitry for displaying closed captions. The law eventually will lessen dependence on the use of portable decoders in achieving compliance with the auxiliary aids and services obligations of Title III of the ADA.

³² 28 C.F.R. § 36.303, 56 Fed. Reg. 35,544, 35,597 (1991); Analysis, 56 Fed. Reg. 35,544, 35,567 (1991).

³³ S. Rep. No. 116, 101st Cong., 1st Sess. at 63 (1989) (Senate Committee on Labor and Human Resources).

³⁴ H.R. Rep. No. 485, Part 3, 101st Cong., 2d Sess. at 55-56 (House Judiciary Committee).

architectural barriers in existing facilities, including communication barriers that are structural in nature.³⁵

Not all barriers need be removed, however. Removal is required only where removal is "readily achievable." This term is defined as that which is "easily accomplishable and able to be carried out without much difficulty or expense."³⁶ Examples of steps to remove barriers include, but are not limited to, the following actions:³⁷

- Installing ramps;
- Making curb cuts in sidewalks and entrances;
- Repositioning shelves;
- Rearranging tables, chairs, vending machines, display racks, and other furniture;
- Repositioning telephones;
- Adding raised markings on elevator control buttons;
- Installing flashing alarm lights;
- Widening doors;
- Installing offset hinges to widen doorways;
- Eliminating a turnstile or providing an alternative accessible path;
- Installing accessible door hardware;
- Installing grab bars in toilet stalls;
- Rearranging toilet partitions to increase maneuvering space;
- Insulating lavatory pipes under sinks to prevent burns;
- Installing a raised toilet seat;
- Installing a full-length bathroom mirror;
- Repositioning the paper towel dispenser in a bathroom;

³⁵ 42 U.S.C. § 12182(b)(2)(A)(iv), ADA § 302(b)(2)(A)(iv); 28 C.F.R. § 36.304(a), 56 Fed. Reg. 35,544, 35,597 (1991).

³⁶ 42 U.S.C. § 12181(q), ADA § 301(q); 28 C.F.R. § 36.104, 56 Fed. Reg. 35,544, 35,594 (1991); 28 C.F.R. § 36.304, 56 Fed. Reg. 35,554, 35,597 (1991).

³⁷ 28 C.F.R. § 36.304(b), 56 Fed. Reg. 35,544, 35,597 (1991).

- Creating designated accessible parking spaces;
- Installing an accessible paper cup dispenser at an existing inaccessible water fountain;
- Removing high pile, low density carpeting; or
- Installing vehicle hand controls.

Whether any of these measures is "readily achievable" is to be determined on a case-by-case basis in light of the particular circumstances presented. For instance, costs that are insignificant to one business may present a tremendous hardship to another.³⁸ Factors in making such a determination include:³⁹

- The nature and cost of the action needed.
- The nature of the site or sites involved, including:
 - The overall financial resources of the site;
 - The number of employees;
 - The effect of the action on expenses and resources;
 - Legitimate safety requirements; and
 - The impact of the action on operations.
- The relationship between the site and any parent corporation or entity, including:
 - The geographic separateness of the site and any parent corporation;
 - The administrative relationship between the site and any parent corporation; and
 - The fiscal relationship of the site and any parent corporation.
- If applicable, the nature of the parent corporation, including:
 - The overall financial resources;
 - The number of employees;
 - The existence of other facilities of the parent corporation or entity; and

³⁸ Analysis, 56 Fed. Reg. 35,544, 35,568 (1991).

³⁹ 28 C.F.R. § 36.104, 56 Fed. Reg. 35,544, 35,594 (1991).

- The type of operation(s) of any parent corporation or entity.

These are the same factors that are considered in making the undue hardship analysis under Title I of the ADA. While the factors are the same, the "readily achievable" standard is much lower than the "undue hardship" requirement.⁴⁰ According to the Senate Committee on Labor and Human Resources:

A public accommodation would not be required to provide physical access if there is a flight of steps which would require extensive ramping or an elevator. The readily achievable standard only requires physical access that can be achieved without extensive restructuring or burdensome expense.⁴¹

In some instances, resources beyond those of the local facility where the barrier exists may be relevant in determining whether an action is readily achievable. When and how the resources of a parent corporation or other related entity are to be taken into account in determining what is readily achievable is to be resolved on a flexible case-by-case basis. The line of inquiry concerning the relevant factors will start at the site involved in the action itself. The overall resources, size and operations of the parent corporation or entity then may be considered to the extent appropriate.⁴²

⁴⁰ Analysis, 56 Fed. Reg. 35,544, 35,569 (1991); S. Rep. No. 116, 101st Cong., 1st Sess. at 65 (1989) (Senate Committee on Labor and Human Resources); H.R. Rep. No. 485, Part 3, 101st Cong., 2d Sess. at 55 (House Judiciary Committee). Similarly, the "readily achievable" standard is a "significantly lesser or lower standard than the 'undue burden' standard" used in Title III. *Id.* As explained by the Senate Committee on Labor and Human Resources:

Any changes that are not easily accomplishable and are not able to be carried out without much difficulty or expense when the preceding factors are weighed are not required under the readily achievable standard, even if they do not impose an undue burden.

S. Rep. No. 116, 101st Cong., 1st Sess. at 65 (1989) (Senate Committee on Labor and Human Resources).

See Chapter 7, *supra* on undue hardship.

⁴¹ Analysis, 56 Fed. Reg. 35,544, 35,568 (1991); S. Rep. No. 116, 101st Cong., 1st Sess. at 66 (1989) (Senate Committee on Labor and Human Resources).

⁴² Analysis, 56 Fed. Reg. 35,544, 35,553-54 (1991).

In addressing the factors to be considered in the readily-accessible analysis, Congress was concerned that a parent company might elect to close a facility that was losing money rather than undertake significant investments to remove barriers to allow access and use for persons with disabilities. In its report on the ADA, the House Judiciary Committee specifically addressed this concern and expressed the intention that the operation of Title III should not result in the closing of local stores:

The Committee does not intend for the requirements of the Act to result in the closure of neighborhood stores or in the loss of jobs. Rather, the Committee intends for courts to consider as a factor in determining whether removing a barrier is "readily achievable" whether the local store is threatened with closure by the parent company or is faced with job loss as a result of the requirements of this Act.⁴³

The requirement to remove architectural barriers includes the removal of physical barriers of any kind, including furniture, equipment, and display racks. For instance, a restaurant may have to rearrange tables and chairs to permit access to individuals who use wheelchairs. Similarly, a department store may have to adjust its layout of display racks and shelves.⁴⁴ But rearrangement of temporary or movable furniture or equipment is not readily achievable if rearrangement results in a significant loss of selling or serving space.⁴⁵

Barrier removal requirements do not extend to areas of a facility that are used exclusively as employee work areas.⁴⁶ If the general public may tour a commercial facility that does not otherwise serve the public, the route followed by the tour is a place of public accommodation. As a consequence, if a factory gives tours to the general public, the tour must be operated in accordance with Title III's requirements for public accommoda-

⁴³ H.R. Rep. No. 485, Part 3, 101st Cong., 2d Sess. at 55 (House Judiciary Committee).

⁴⁴ Analysis, 56 Fed. Reg. 35,544, 35,568 (1991); S. Rep. No. 116, 101st Cong., 1st Sess. at 66 (1989) (Senate Committee on Labor and Human Resources).

⁴⁵ 28 C.F.R. § 36.304, 56 Fed. Reg. 35,544, 35,598 (1991); Analysis, 56 Fed. Reg. 35,544, 35,568 (1991).

⁴⁶ Analysis, 56 Fed. Reg. 35,544, 35,568 (1991).

tions. Therefore, the route followed by the tour must be barrier-free and accessible to persons with disabilities. The barrier removal requirements, however, apply only to the physical route followed by the tour participants. The requirements do *not* extend to work stations or other areas that are merely adjacent to, or within view of, the tour route. If the tour is not open to the general public, but rather is conducted, for example, only for selected business colleagues, partners, customers, or consultants, the tour route is not a place of public accommodation, and barrier removal would not be required by Title III.⁴⁷

The Department of Justice has “urged” places of public accommodation to remove barriers in accordance with the following order of priorities:⁴⁸

First, access to the facility from public sidewalks, parking, or public transportation. These measures include:

- Installing an entrance ramp;
- Widening entrances; and
- Providing accessible parking spaces.

Second, access to areas where goods and services are made available to the public. These measures include:

- Adjusting the layout of display racks;
- Rearranging tables;
- Providing brailled and raised-character signage;
- Widening doors;
- Installing visual alarms; and
- Installing ramps.

Third, access to restroom facilities. These measures include:

- Removal of obstructing furniture or vending machines;
- Widening of doors;
- Installation of ramps;
- Providing accessible signage;

⁴⁷ Analysis, 56 Fed. Reg. 35,544, 35,568 (1991).

⁴⁸ 28 C.F.R. § 36.304(c), 56 Fed. Reg. 35,544, 35,598 (1991).

- Widening of toilet stalls; and
- Installation of grab bars.

Fourth, any other methods necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

Barrier-removal measures must generally comply with the ADAAG for each element being altered. But if these ADAAG measures are not readily achievable, deviations from specified requirements may be allowed. Deviations might include providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by ADAAG. Path-of-travel requirements do not apply to measures taken solely to comply with barrier removal requirements.⁴⁹

Where barrier removal is not readily achievable, the regulations provide that alternative methods must be used, as long as those alternative methods are readily achievable.⁵⁰ Alternatives to barrier removal may entail:⁵¹

- Providing curb service or home delivery;
- Retrieving merchandise from inaccessible shelves or racks; or
- Relocating activities to accessible locations.

Some other examples from the legislative history of the ADA include the following:

- A dry cleaning facility may receive or return dry cleaning at the door of the facility rather than make the interior of the facility accessible to persons in wheelchairs.
- A restaurant may make special seating arrangements instead of removing walls.

⁴⁹ 28 C.F.R. § 36.304(d), 56 Fed. Reg. 35,544, 35,598 (1991).

⁵⁰ 42 U.S.C. § 12182(b)(2)(v), ADA § 302(b)(2)(v); 28 C.F.R. § 36.305, 56 Fed. Reg. 35,554, 35,598 (1991); Analysis, 56 Fed. Reg. 35,544, 35,570-71 (1991).

⁵¹ Analysis, 56 Fed. Reg. 35,544, 35,570-71 (1991).

- A movie theater may rotate movies between accessible first floor theaters and inaccessible second floor theaters.⁵²

A public accommodation, such as a department store or book or grocery store, is not required to alter its inventory to include accessible or special goods for individuals with disabilities.⁵³ But a store must order accessible or special goods on request if the following two conditions are met:⁵⁴

- *First*, in the normal course of its operations, the store makes special orders on request for unstocked goods; and
- *Second*, the accessible or special goods can be obtained from a supplier with whom the store customarily orders goods.

Examples of accessible or special goods would include items such as:⁵⁵

- Brailled versions of books;
- Books on audio cassettes;
- Closed-captioned videotapes;
- Special sizes or lines of clothing; and
- Special foods to meet particular dietary needs.

Existing assembly areas in places of public accommodation must also be made accessible to individuals with disabilities.⁵⁶ To achieve this goal, the regulations require that the following steps be taken, to the extent they are readily achievable:

- Provide a reasonable number of wheelchair seating spaces and seats with removable aisle-side arm rests;
- Disperse wheelchair seating spaces to provide lines of sight and choices of admission prices that are comparable to those for members of the general public;

⁵² S. Rep. No. 116, 101st Cong., 1st Sess. at 66 (1989) (Senate Committee on Labor and Human Resources).

⁵³ 28 C.F.R. § 36.307, 56 Fed. Reg. 35,554, 35,598 (1991).

⁵⁴ 28 C.F.R. § 36.307(b), 56 Fed. Reg. 35,554, 35,598 (1991).

⁵⁵ 28 C.F.R. § 36.307(c), 56 Fed. Reg. 35,554, 35,598 (1991).

⁵⁶ 28 C.F.R. § 36.308, 56 Fed. Reg. 35,554, 35,598 (1991).

- Adjoin wheelchair seating spaces to an accessible route that also serves as a means of egress in case of emergency; and
- Locate wheelchair seating spaces to permit individuals with wheelchairs to sit with companions.

If it is not readily achievable to remove seats to allow wheelchair seating next to family members, portable chairs or other means must be provided to allow family members to sit next to wheelchair companions. When a person in a wheelchair transfers to existing seating, the public accommodation must provide assistance in handling the wheelchair.⁵⁷

[6]—Maintenance of Accessible Features

The obligations of Title III do not end with the installation of accessible features and devices to accommodate persons with disabilities. The Title III regulations also require that public accommodations *maintain* these accessible features. The regulations do recognize that isolated or temporary interruptions in service or access due to maintenance or repairs are to be expected and, therefore, such minor interruptions are not prohibited.⁵⁸ Nevertheless, a business must remove obstructions or repair “out of service” equipment within a reasonable period of time. Also, a business may not allow repeated mechanical failures due to improper or inadequate maintenance. Of course, the Act forbids absolute failure to ensure that accessible routes are properly maintained and are free of obstructions and the failure to arrange prompt repair of inoperable elevators or other equipment intended to provide access.⁵⁹

[7]—Landlord and Tenant Responsibilities

If a building houses a place of public accommodation, the Title III requirements apply to both landlord and tenant. For instance, if an office building contains a doctor’s office, both the owner of

⁵⁷ 28 C.F.R. § 36.308, 56 Fed. Reg. 35,554, 35,598 (1991). For new construction and altered assembly areas, the provision and location of wheelchair seating spaces is governed by the standards in Subpt. D (28 C.F.R. §§ 36.401-36.406, 56 Fed. Reg. 35,554, 35,599-602 (1991)).

⁵⁸ 28 C.F.R. § 36.211, 56 Fed. Reg. 35,554, 35,596 (1991).

⁵⁹ Analysis, 56 Fed. Reg. 35,544, 35,562 (1991).

the building and the doctor's office must make readily achievable alterations. As between the two, the allocation of responsibility for complying with Title III may be determined by lease or other contract. In the absence of a lease or contract, the responsibilities generally will be allocated in the following manner:⁶⁰

- The landlord will be responsible for making readily achievable changes and providing auxiliary aids and services in common areas and for modifying policies, practices, or procedures applicable to all tenants; and
- The tenant will be responsible for readily achievable changes, provision of auxiliary aids, and modification of policies within its own place of public accommodation.⁶¹

An entity that is not in and of itself a public accommodation, such as a trade association or a performing artist, may become a public accommodation when it leases space for a conference or performance at a hotel, convention center, or stadium. Specific responsibilities for complying with the ADA may be allocated by contract but, generally, the lessee will be responsible for providing auxiliary aids and services (which could include interpreters and braille programs) for the participants at its conference or performance. The lessee will also be responsible for assuring that displays are accessible to individuals with disabilities.⁶²

A private club is considered a public accommodation to the extent that its facilities are made available to the customers or patrons of a place of public accommodation. Thus, if a private club runs a day care center open exclusively to its own members, the club, like a church, would have no responsibility for ADA compliance. On the other hand, if the private club rents to a day care center that is open to the public, then the private club would be subject to the landlord requirements of Title III, and the day care center lessee would be subject to the ADA's lessee requirements. The same result would hold if a private club leases space to an association, such as a bar association, for a conference.⁶³

⁶⁰ 28 C.F.R. § 36.308, 56 Fed. Reg. 35,554, 35,598 (1991).

⁶¹ See 28 C.F.R. § 36.201(b), 56 Fed. Reg. 35,554, 35,595 (1991); Analysis, 56 Fed. Reg. 35,554, 35,555-56 (1991).

⁶² Analysis, 56 Fed. Reg. 35,544, 35,555-56 (1991).

⁶³ Analysis, 56 Fed. Reg. 35,544, 35,555-56 (1991).

[8]—Shuttle Services

A public accommodation that provides transportation services, but is not engaged primarily in the business of transporting people, must remove transportation barriers in existing vehicles where doing so would be readily achievable. But in meeting this obligation, the retrofitting of existing vehicles with hydraulic or other lifts is not required.⁶⁴ But if a public accommodation purchases or leases new vehicles, these vehicles must be accessible.⁶⁵

These provisions apply to shuttle services for the benefit of clients or customers, not to transportation services provided only to employees. If employees and customers or clients are served by the same transportation system, however, then the provisions of this section will apply.⁶⁶

§ 9.04 Courses and Examinations

In addition to commercial facilities and places of public accommodation, Title III of the ADA governs the operations of private entities that offer examinations or courses related to:

- Applications;
- Licensing;
- Certification; or
- Credentialing

for the following purposes:

- Secondary education;
- Post-secondary education;
- Professional requirements; or
- Trade requirements.¹

⁶⁴ 42 U.S.C. § 12184; 28 C.F.R. § 36.310, 56 Fed. Reg. 35,554, 35,599 (1991).

⁶⁵ 28 C.F.R. § 36.508(c), 56 Fed. Reg. 35,554, 35,603 (1991) requires that vehicles solicited after August 25, 1990 must be accessible.

⁶⁶ Analysis, 56 Fed. Reg. 35,544, 35,555-56 (1991).

¹ This provision is intended to fill a gap between coverage of federally funded entities offering courses and examinations (governed by section 504 of the Rehabilitation Act) and state and local authorities offering courses and examinations (governed by Title II of the ADA). See H.R. Rep. No. 485, Part 3, 101st Cong., 2d Sess. at 69 (House Judiciary Committee).

Title III requires that these entities offer "examinations and courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals."²

Entities that offer tests or examinations must ensure that the examination measures what it is intended to measure, rather than merely reflect the impaired sensory, manual or speaking skills of the test taker. In order to achieve this goal, the examination format may have to be modified or auxiliary aids or services may need to be provided. Necessary modifications may include providing more time for completion of the examination or a change in the manner of giving the examination; for example, reading the examination to the individual. Required auxiliary aids and services may include:

- Brailled examinations;
- Large-print examinations and answer sheets;
- "Qualified" readers; or
- Transcribers to write the answers.

If the course materials are published and available from other sources, the entity offering the course may give advance notice of what materials will be used to allow an individual to obtain them in braille or on tape. Materials provided by the course offerer, on the other hand, must be made available in alternative formats for individuals with disabilities.³

§ 9.05 Relationship Between Title I and Title III

Title I of the ADA prohibits discrimination against individuals with disabilities in employment and employment opportunities. It requires businesses to make reasonable accommodations (*see* Chapter 6, *supra*) for qualified job applicants and employees with disabilities.

The public accommodations provisions of Title III prohibit discrimination against disabled customers, clients and patrons.

² 42 U.S.C. § 12189, ADA § 309; 28 C.F.R. § 36.309, 56 Fed. Reg. 35,554, 35,598-99 (1991).

³ 28 C.F.R. § 36.309, 56 Fed. Reg. 35,544, 35,598-99 (1991); Analysis, 56 Fed. Reg. 35,544, 35,572-74 (1991).

It requires businesses to make reasonable modifications in policies, practices, and procedures where necessary to ensure that disabled members of the general public are provided integrated and equal access to activities, goods and services.

Both Title I and the public accommodations requirements of Title III require the provision of auxiliary communication aids and services, the immediate removal of architectural barriers in existing facilities, and the removal of transportation barriers in shuttle services. The distinction is that Title I focuses on job applicants and employees; the public accommodations provisions of Title III focus on accommodating the general public. In addition, while employers of fewer than fifteen employees are not covered by the employment discrimination provisions of Title I, there is no such limitation with respect to Title III.

The new construction and alterations provisions of Title III, however, are not limited to accommodating the public. All new facilities are expected to provide complete access to everyone — clients, customers, patrons and employees. Similarly, every altered portion of a facility must conform with the ADA Accessibility Guidelines. Where the alteration is to a “primary function” area, regardless of which category of individuals is served by that area, the path of travel to that area, and the restrooms, telephones and drinking fountains serving the primary function area, must conform with the ADA Accessibility Guidelines unless those costs are disproportionate.

In short, the new construction and alterations provisions of Title III apply to all business facilities, whether or not they serve the public and regardless of whom the facilities serve. The public accommodations provisions of Title III and the employment provisions of Title I have the same goal: accommodating individuals with disabilities by way of auxiliary communication aids and services, and immediate barrier removal in shuttle services and existing facilities. The distinction is in the category of people to be accommodated: Title I focuses on job applicants and employees; the public accommodations provisions of Title III focus on the general public, *i.e.*, clients, customers, and patrons.

§ 9.06 Enforcement of Title III

Any person subjected to disability discrimination in violation of Title III, or who has reasonable grounds to believe that he or

she is about to be discriminated against, may bring a civil action for preventive relief, including an application for a permanent or temporary injunction or a restraining order.¹ If the case is of general public importance, the court may permit the Attorney General to intervene. The court may appoint an attorney for the complainant and may exempt the complainant from the payment of fees, costs, or security.

Rather than proceeding immediately to court, an individual may request the Department of Justice to investigate the alleged violation of Title III.² The Attorney General is required to investigate alleged violations. After the investigation, the Attorney General may initiate a compliance review or may commence a civil action in federal court. The court may grant equitable relief, including:

- Granting temporary, preliminary, or permanent relief;
- Requiring an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; or
- Making facilities readily accessible to and usable by individuals with disabilities.³

In addition, the court may award monetary damages and may, to vindicate the public interest, assess a civil penalty against a discriminating entity in an amount up to \$50,000 for a first violation and up to \$100,000 for any subsequent violation.⁴ Attorney's fees and costs may be allowed to the prevailing party.⁵

In considering the appropriateness of a civil penalty, the court will consider any good faith effort or attempt to comply with the ADA.⁶ This is in contrast to Title I, which includes no good faith

¹ 42 U.S.C. § 12188, ADA § 308; 28 C.F.R. § 36.501, 56 Fed. Reg. 35,554, 35,602 (1991).

² 42 U.S.C. § 12188, ADA § 308; 28 C.F.R. §§ 36.502, 36.503, 56 Fed. Reg. 35,554, 35,602-03 (1991).

³ 42 U.S.C. § 12188, ADA § 308; 28 C.F.R. § 36.504, 56 Fed. Reg. 35,554, 35,603 (1991).

⁴ A single judgment or settlement equals a single violation. 42 U.S.C. § 12188, ADA § 308.

⁵ 28 C.F.R. § 36.505, 56 Fed. Reg. 35,554, 35,603 (1991).

⁶ 42 U.S.C. § 12188, ADA § 308; 28 C.F.R. § 36.504(d), 56 Fed. Reg. 35,554, 35,603 (1991).

defense. Good faith compliance may be evidenced by the defendant's having established procedures in place for an ongoing assessment of ADA compliance, including appropriate consultation with disabled individuals or organizations representing them.⁷ Title III generally becomes effective on January 26, 1992.⁸ Businesses with 25 or fewer employees and gross receipts of \$1,000,000 or less cannot be sued for violations committed before July 26, 1992. Businesses with ten or fewer employees and gross receipts of \$500,000 or less cannot be sued for violations committed before January 26 1993.⁹

§ 9.07 Certification of State Laws or Local Building Codes

On the application of a state or local government, the Assistant Attorney General may certify that a state or local building code meets or exceeds the minimum requirements of ADA Title III. Certification is rebuttable evidence that the code meets or exceeds Title III's minimum requirements.¹ Certification will not be effective, however, in situations where a building code official allows a facility to be constructed or altered in a way that does not follow the technical or scoping provisions of the certified code. And if an official either waives an accessible element or feature or allows a change that does not provide equivalent facilitation, the fact that a code has been certified will no longer be evidence that the facility has been constructed or altered in accordance with the ADA.²

§ 9.08 CHECKLIST: Compliance of Existing Facilities

Under Title III of the ADA, new construction and alterations (when undertaken) of virtually all private, non-residential facilities must conform to the ADA and the Americans with Disabilities Act Accessibility Guidelines (ADAAG). If a "primary function area" is altered, the path of travel to that area (including restrooms, telephones and drinking fountains serving the altered

⁷ Analysis, 56 Fed. Reg. 35,555-69 (1991).

⁸ 28 C.F.R. § 36.508, 56 Fed. Reg. 35,554, 35,603 (1991).

⁹ This lead in time is intended to provide smaller businesses with a period of protection while coming into compliance with the ADA. See 136 Cong. Rec. H2464 (daily ed. May 17, 1990) (remarks of Rep. LaFalce).

¹ 28 C.F.R. §§ 36.601-36.608, 56 Fed. Reg. 35,554, 35,603-04 (1991).

² Analysis, 56 Fed. Reg. 35,544, 35,555-56 (1991).

area) must also be made accessible unless the additional cost of doing so exceeds 20 percent of the cost of the alteration to the primary function area. Newly constructed or altered employee work areas must be accessible, but accessibility of each individual work station is not required.

Existing places of public accommodation (generally, facilities that serve the public and fall into one of twelve categories) are subject to a further requirement of barrier removal where readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense. The ADA sets priorities among measures to eliminate barriers:

- (1) Access and entrance to a place of public accommodation.
- (2) Access to areas where goods and services are made available to the public.
- (3) Access to restrooms.
- (4) Any other measures required to remove barriers.

The obligation to remove barriers does not extend to areas of a facility that are used exclusively as employee work areas.

Basic Rules for Entry and Path of Travel:

- The minimum clear width of an accessible route shall be 36 inches except at doors (see below) (ADAAG 4.3.3).
- If an accessible route has less than 60 inches clear width, then passing spaces at least 60 by 60 inches shall be located at reasonable intervals not to exceed 200 feet. An intersection of two corridors or walks is an acceptable passing place (ADAAG 4.3.4).
- Wheelchair turning spaces shall be 60 inches in diameter or a T-shaped space (ADAAG 4.2.3).
- When required, the minimum clear floor or ground space required to accommodate a single, stationary wheelchair occupant is 30 by 48 inches (ADAAG 4.2.4).
- Floor and ground surface must be slip-resistant. Carpet must be securely attached with firm backing and have pile no deeper than 1/2 inch (ADAAG 4.5.1 and 4.5.3).
- Protruding objects (cane detection): Objects projecting from walls (e.g., telephones) with their lead (bottom) edges

at or below 27 inches above the finished floor may protrude any amount. Objects projecting from walls with their leading (bottom) edges between 27 and 80 inches above the finished floor shall protrude no more than four inches into the walks and corridors. Freestanding objects mounted on posts or pylons may project 12 inches. Protruding objects shall not reduce the clear width of an accessible route or maneuvering space (ADAAG 4.4.1).

- Change in level: A change in level up to 1/4 inch may be vertical and without edge treatment. Changes in level between 1/4 inch and 1/2 inch shall be beveled with a slope no greater than 1:2. A change in levels greater than 1/2 inch requires a ramp (ADAAG 4.3.8).
- Ramps: The optimum ramp slope of 1:12 shall be used when possible, with a maximum rise of 30 inches.
- Existing slope of 1:10 is acceptable for a maximum run of five feet and maximum rise of six inches.
- Existing slope of 1:8 is acceptable for a maximum run of two feet and maximum rise of three inches.
- Level ramp landings at the bottom and top of each ramp must be at least as wide as the ramp leading to it and a minimum of 60 inches long. If a ramp changes direction at a landing, the minimum landing size is 60 by 60 inches (ADAAG 4.8.4).
- Handrails are required on both sides of a ramp with a rise greater than six inches or a horizontal projection greater than 72 inches. Handrails are mounted at a height between 30 and 34 inches above the ramp surface (ADAAG 4.8.5).
- Stair treads shall be at least 11 inches. Open risers are not permitted. Handrails are required on both sides and shall be mounted at a height between 30 and 34 inches above stair nosing (ADAAG 4.9.2 and 4.9.4).
- Passage doorways must allow 32 inches clear with door open 90 degrees (ADAAG 4.13.5). Existing clear door widths of 31-3/8 inches are acceptable (ADAAG 4.1.6(4)(d)). Doorway passage depth (wall or doorjamb)

cannot exceed 24 inches (ADAAG 4.2.1). Existing thresholds of no higher than 3/4-inch are acceptable if beveled on each side (ADAAG 4.1.6(4)(d)).

- Maneuvering clearance at manual doors: Front approach, pull-side maneuvering requires a 60-inch depth and 18-inch side clearance. Front approach, push-side maneuvering requires a 48-inch depth and 12-inch side clearance. Side approach, pull-side maneuvering requires a 48-inch depth and 24-inch side clearance. Side approach, push-side maneuvering requires a 42-inch depth and 24-inch side clearance (ADAAG 4.13.6).
- Door and plumbing fixture hardware must be easy to grasp with one hand and should not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated, push-type, touch-type or automated mechanisms are acceptable designs (ADAAG 4.13.9 and 4.27.4).
- No elevator is required in a facility of less than three stories or less than 3,000 square feet per story unless the building is a shopping center or mall or is health care related (ADAAG 4.13.9, 4.24.7 and 4.27.4).

Site Access:

- There must be an accessible site route to the building entrance from bus stops, handicapped parking spaces, passenger loading zones, if provided, and public streets or sidewalks (ADAAG 4.1.2(1) and 4.3.1).
- There must be an accessible route connecting buildings, facilities, elements and spaces on the same site (ADAAG 4.1.2(2) and 4.3.2).
- At least 50 percent of all public entrances must be accessible. There must also be access to any provided enclosed parking, pedestrian tunnels, or elevated walkways (ADAAG 4.1.3(8)).
- Handicapped parking spaces and loading zones shall be the spaces or zones located closest to the nearest accessible entrance on an accessible route (ADAAG 4.6.2). (The number of required handicapped parking spaces can be found in ADAAG 4.1.2(5)(a).)

- Handicapped parking spaces shall be at least 96 inches wide with an adjacent access aisle at least 60 inches wide which is part of an accessible route to the facility entrance. Two accessible parking spaces may share a common access aisle. Surface slope shall not be served by an access aisle 96 inches wide and must have a sign indicating that it is van-accessible (ADAAG 4.1.2(5)(b), 4.6.3 and 4.6.4).
- A passenger loading zone, if provided, must have an access aisle 60 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space, and a curb cut, if there is a curb (ADAAG 4.1.2(5) and 4.6.6). Vertical clearance of 114 inches is required in vehicle access areas (ADAAG 4.6.5).
- Slope: An accessible route with a running slope greater than 1:20 must comply with ramp requirements (ADAAG 4.8). Nowhere shall the cross (sideways) slope of an accessible route exceed 1:50 (ADAAG 4.3.7).
- Curb ramps are required wherever an accessible route crosses a curb. The minimum width for a curb ramp is 36 inches. If a curb ramp overlaps a pedestrian walk, and it is not protected by handrails, then it shall have flared sides not exceeding a 1:10 slope. Built-up curb ramps shall not project into vehicular traffic lanes. Curb ramps shall not be obstructed by parked vehicles. Handrails are not required on curb ramps (ADAAG 4.7.1, 4.7.3, 4.7.5, 4.7.6, 4.7.8 and 4.8.5).
- Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20 (ADAAG 4.7.2).

Accessible Toilet Rooms:

- Accessible toilet rooms shall be on an accessible route (ADAAG 4.22.1).
- Nondiscriminatory facilities: If water closets are provided, then at least one shall be accessible. If stalls are provided, then the handicapped water closet must be in an accessible stall. If urinals are provided, then at least one must be

accessible. If lavatories and mirrors are provided, then at least one of each shall be accessible. If controls, dispensers, receptacles, or other equipment are provided, then at least one of each shall be accessible (ADAAG 4.22.4, 4.22.5, 4.22.6 and 4.22.7).

- Doors shall be at least 32 inches wide and shall not swing into the clear floor space required for any fixture (ADAAG 4.22.2). An unobstructed turning space (60-inch diameter or a T-shaped space) must be provided within an accessible toilet room (ADAAG 4.22.3). *Exception:* In a toilet room with only one water closet and one lavatory, a clear floor space of 30 by 60 inches may be used in lieu of unobstructed turning space (ADAAG 4.22.3). (A single room water closet with lavatory can be accomplished with a clear space of 60 by 66 inches.)
- Accessible water closets must have seats 17 to 19 inches high, and must have grab bars (ADAAG 4.16.3, 4.16.4 and 4.26). Front approach dimensions (non-stall) should allow a 48-inch width and a 66-inch depth, or a 60-inch width and a 56-inch depth. Side approach dimensions (non-stall) should allow a 48-inch width and a 56-inch depth (ADAAG 4.16.2).
- Toilet stalls: A standard accessible toilet stall measures 59 inches deep (56 inches if wall-mounted toilet) by 60 inches wide and has a grab bar and an outward swinging door (ADAAG 4.17.3). A second accessible stall (36 inches by sixty inches), with an outward-swinging, self-closing door and parallel grab bars, is required in restrooms with six or more stalls (ADAAG 4.22.4). In instances of alteration work where provision of a standard stall is a hardship, a stall measuring 69 inches deep and 48 inches wide, with grab bars on one side and in back, or a stall with dimensions of 69 inches deep and 36 inches wide, with grab bars on both sides, may be used (ADAAG 4.17.3). Stall doors must be 32 inches wide (ADAAG 4.17.5). A toe clearance of nine inches is required in stall partitions less than 60 inches deep (ADAAG 4.17.4). If a toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a minimum of 42 inches (ADAAG 4.17.5).

- Lavatories and mirrors: An accessible lavatory rim or counter surface shall be no higher than 34 inches and shall provide a knee clearance of at least 29 inches. A clear floor space of 30 by 48 inches shall allow a forward approach. Hot water pipes must be insulated or otherwise configured to protect against contact, and there must be no sharp or abrasive surfaces under lavatories (ADAAG 4.19.2, 4.19.3 and 4.19.4). Faucet fixtures should be lever-operated, push-type, or electronically controlled (ADAAG 4.19.5 and 4.27.4). The bottom edge of mirrors shall be no higher than 40 inches above the finished floor (ADAAG 4.19.6).
- If alterations to existing facilities make compliance technically unfeasible, the addition of one accessible "unisex" toilet room containing one water closet and one lavatory, located in the same area as existing toilet facilities, will be permitted in lieu of modifying existing toilet facilities to be accessible (ADAAG 4.1.6(3)(e)). (A single-room water closet with lavatory can be accomplished with a clear space of 60 by 60 inches.)

Other Barriers:

- Drinking fountains: If drinking fountains or water coolers are provided, approximately 50 percent (and at least one) shall be accessible (ADAAG 4.1.3(10)). Spouts shall be no higher than 36 inches (ADAAG 4.15.2). Wall- and post-mounted cantilevered units need a clear knee space 27 inches high, 30 inches wide, and 17 inches deep, and a minimum clear floor space of 30 by 48 inches. Free-standing or built-in units without knee space require a clear floor space at least 30 by 48 inches, allowing a parallel wheelchair approach (ADAAG 4.15.5).
- Public telephones: If public telephones are provided on a floor or in a bank of two or more telephones, then one accessible public telephone must be provided on that floor or in each bank (ADAAG 4.1.3(7)). Clear floor space of 30 by 48 inches must allow either a forward or parallel approach by a wheelchair (ADAAG 4.31.2).
- Seating spaces: If fixed or built-in seating, tables, or work surfaces are provided in accessible spaces, at least five

percent, but always at least one, of seating spaces, tables, or work surfaces shall be accessible (ADAAG 4.1.3(18)). Accessible space requires a knee space 27 inches high, 30 inches wide and 29 inches deep, a clear floor space of 30 by 48 inches, and a work surface from 28 to 34 inches above the floor (ADAAG 4.32).

- Assembly areas must provide dispersed wheelchair locations and seats with removable or no arm rests. (See Department of Justice Regulations, section 36, and ADAAG 4.1.3(19) and 4.33.)
- Handicapped signs are required at handicapped parking spaces, passenger loading zones, accessible entrances, and accessible toilet facilities when not all are accessible (ADAAG 4.1.2(7), 4.6.4, and 4.30).
- Building signage (exterior and interior) must be made accessible (see ADAAG 4.1.2(7), 4.1.3(16) and 4.30).

§ 9.09 QUESTIONS AND ANSWERS: Title III of the ADA.

QUESTION: What physical alterations should a company consider making to its manufacturing plant?

ANSWER: To comply with Title I, a company should consider removing any physical barriers that may hinder job applicants with disabilities from entering the area of the plant where applications are taken, unless removal would constitute an undue hardship. A company also may need to make physical changes within the plant as a reasonable accommodation to allow employees with disabilities to perform jobs for which they are qualified.

Under Title III, a company is required to immediately remove barriers in areas of the plant open to members of the general public, where the removal is readily achievable. Such areas might include the plant entry area where company products are displayed or the plant auditorium where public presentations are given. A

company should make this public area readily accessible to and usable by individuals with disabilities, if making the necessary changes is readily achievable. In addition, if readily achievable, the public areas and the restrooms serving the area must be made accessible. If members of the public tour the manufacturing plant, the company must take readily achievable steps to remove barriers along the tour route. Likewise, if the company operates a retail outlet to sell manufactured products, the company must institute readily achievable barrier removal for customers of the outlet.

If no portion of the manufacturing plant is open to the public at any time, Title III does not require the company to make any portion of the facility accessible until such time as the company undertakes alteration or new construction. When alterations occur, each altered element must conform to the ADA Accessibility Guidelines (ADAAG). In addition, where the company undertakes alterations of a "primary function" area of the plant, the company must spend up to an additional twenty percent of that cost to make the "path of travel" to the altered primary function area — including restrooms, telephones, and drinking fountains serving the altered area — accessible to disabled individuals.

QUESTION: What immediate alterations must be made to a retail store, such as a clothing store? Does the store need to alter its employee restrooms for use by disabled customers?

ANSWER: Where readily achievable, the store must immediately remove physical barriers to disabled customers. Barrier removal may include altering the location of furniture, equipment and

display racks. A thirty-six inch wide path of travel throughout the public areas of the store will allow wheelchair access. The store also may need to reconfigure display racks and shelves; however, any reconfiguration would not be readily achievable to the extent that any change would result in a significant loss of selling or serving space. If the widening of all aisles in selling or serving areas is not readily achievable, then the store should consider selected widening of certain aisles to maximize the amount of merchandise or the number of tables accessible to individuals who use wheelchairs.

Where barrier removal is not readily achievable, the store must provide alternative accommodations. These alternatives could include having a salesperson bring merchandise from inaccessible areas or providing a private dressing area that is accessible where the other dressing rooms are not otherwise accessible. The store is not required under the ADA to make accessible to the public those areas that are used exclusively as employee work areas. Also, if the store normally does not allow the public to use its employee restrooms, the store does not need to make them accessible to disabled customers. However, under Title I of the ADA, pertaining to employment, the store may need to make its employee work areas and the restrooms accessible to its disabled employees.

QUESTION: A company is planning to construct a two-story office building. Does an elevator need to be installed? If an elevator is not installed, do ramps need to be constructed between floors?

ANSWER: No elevator is required in a facility of fewer than three stories or less than 3,000 square feet per story, unless the facility houses a shopping

center or mall, health care facilities, or a transportation station. A two-story office building does not need an elevator, nor must ramps be installed. All other elements of the facility must be accessible, however. In designing the building, the company should assume that an individual in a wheelchair may otherwise gain access to each floor of the facility and must be accommodated in all other respects.

QUESTION: A landlord leases space to a law firm in an office building. The law firm's suite contains a reception area that is inaccessible to persons in wheelchairs. Under the ADA, are both the building owner and law firm responsible for making readily achievable changes to the reception area?

ANSWER: The Justice Department regulations define a public accommodation as both the landlord who owns the building and the tenant who operates the place of public accommodation, which, in this case, would be the law firm. The regulations do not allocate specific responsibilities between the landlord and tenant. Each party, therefore, would be legally responsible for complying with Title III of the ADA. The parties, however, are free to allocate their particular obligations amongst themselves by contract.

QUESTION: May a developer rely on a local building code inspector to ensure that construction conforms to the requirements of the ADA?

ANSWER: No. A building official's certification or waiver usually is grounds for reliance in the case of building code requirements. However, it is not grounds for reliance under the ADA.

QUESTION: Is barrier removal limited to physical barriers which hinder persons with mobility impairments?

ANSWER: No. While in most instances barrier removal will involve the elimination of architectural obstructions, barriers may also include communication barriers that are structural in nature. Under the ADA, these communication barriers may need to be removed. For instance, if a business ordinarily allows clients or customers to use a telephone, the business may need to provide a TDD (telecommunications device for the deaf) for those clients or customers with hearing impairments.

QUESTION: If a commercial building owner moves an electrical socket, would this change be considered an "alteration" under Title III?

ANSWER: Yes. Anything other than normal maintenance constitutes an "alteration" for purposes of Title III. However, under the Department of Justice regulations, an alteration to an electrical outlet does not trigger path-of-travel accessibility requirements.

QUESTION: A movie theater is fully accessible to individuals with wheelchairs. The theater, however, has a rule that requires all persons in wheelchairs to have an attendant. Has the theater satisfied all of its obligations under Title III?

ANSWER: No. A public accommodation must do more than be physically accessible to persons with disabilities. A public accommodation may not impose eligibility criteria that screen out individuals with disabilities, unless the criteria are necessary for the provision of the services being offered. Since many persons in wheelchairs can function satisfactorily without an attendant, the

movie theater's blanket eligibility rule would violate the ADA.

QUESTION: Must a disabled person wait until he or she has been subjected to discrimination before filing a suit?

ANSWER: No. Under Title III, an individual who reasonably believes that discrimination is about to occur may institute a court action to prevent the discriminatory practice. For instance, a person who uses a wheelchair may challenge the planned construction of a new place of public accommodation, such as a shopping mall, if the architectural plans do not comply with the ADA Accessibility Guidelines.

accessible. Paragraph (c)(2) gives examples of possible modifications that might be required, including extending the time permitted for completion of the course, permitting oral rather than written delivery of an assignment by a person with a visual impairment, or adapting the manner in which the course is conducted (i.e., providing cassettes of class handouts to an individual with a visual impairment). In response to comments, the Department has added to the examples in paragraph (c)(2) specific reference to distribution of course materials. If course materials are published and available from other sources, the entity offering the course may give advance notice of what materials will be used so as to allow an individual to obtain them in Braille or on tape but materials provided by the course offerer must be made available in alternative formats for individuals with disabilities.

In language similar to that of paragraph (b), paragraph (c)(3) requires auxiliary aids and services, unless a fundamental alteration or undue burden would result, and paragraph (c)(4) requires that courses be administered in accessible facilities. Paragraph (c)(5) gives examples of alternative accessible arrangements. These may include provision of the course through videotape, cassettes, or prepared notes. Alternative arrangements must provide comparable conditions to those provided to others, including similar lighting, room temperature, and the like. An entity offering a variety of courses, to fulfill continuing education requirements for a profession, for example, may not limit the selection or choice of courses available to individuals with disabilities.

Section 36.310 Transportation Provided by Public Accommodations

Section 36.310 contains specific provisions relating to public accommodations that provide transportation to their clients or customers. This section has been substantially revised in order to coordinate the requirements of this section with the requirements applicable to these transportation systems that will be contained in the regulations issued by the Secretary of Transportation pursuant to section 306 of the ADA, to be codified at 49 CFR part 37. The Department notes that, although the responsibility for issuing regulations applicable to transportation systems operated by public accommodations is divided between this Department and the Department of Transportation, enforcement authority is assigned only to the Department of Justice.

The Department received relatively few comments on this section of the proposed rule. Most of the comments addressed issues that are not specifically addressed in this part, such as the standards for accessible vehicles and the procedure for determining whether equivalent service is provided. Those standards will be contained in the regulation issued by the Department of Transportation. Other commenters raised questions about the types of transportation that will be subject to this section. In response to these inquiries, the Department has revised the list of examples contained in the regulation.

Paragraph (a)(1) states the general rule that covered public accommodations are subject to all of the specific provisions of subparts B, C, and D, except as provided in § 36.310. Examples of operations covered by the requirements are listed in paragraph (a)(2). The stated examples include hotel and motel airport shuttle services, customer shuttle bus services operated by private companies and shopping centers, student transportation, and shuttle operations of recreational facilities such as stadiums, zoos, amusement parks, and ski resorts. This brief list is not exhaustive. The section applies to any fixed route or demand responsive transportation system operated by a public accommodation for the benefit of its clients or customers. The section does not apply to transportation services provided only to employees. Employee transportation will be subject to the regulations issued by the Equal Employment Opportunity Commission to implement title I of the Act. However, if employees and customers or clients are served by the same transportation system, the provisions of this section will apply.

Paragraph (b) specifically provides that a public accommodation shall remove transportation barriers in existing vehicles to the extent that it is readily achievable to do so, but that the installation of hydraulic or other lifts is not required.

Paragraph (c) provides that public accommodations subject to this section shall comply with the requirements for transportation vehicles and systems contained in the regulations issued by the Secretary of Transportation.

Subpart D—New Construction and Alterations

Subpart D implements section 303 of the Act, which requires that newly constructed or altered places of public accommodation or commercial facilities be readily accessible to and usable by individuals with disabilities.

requirement contemplates a high degree of convenient access. It is intended to ensure that patrons and employees of places of public accommodation and employees of commercial facilities are able to get to, enter, and use the facility.

Potential patrons of places of public accommodation, such as retail establishments, should be able to get to a store, get into the store, and get to the areas where goods are being provided. Employees should have the same types of access, although those individuals require access to and around the employment area as well as to the area in which goods and services are provided.

The ADA is geared to the future—it's goal being that, over time, access will be the rule, rather than the exception. Thus, the Act only requires modest expenditures, of the type addressed in § 36.304 of this part, to provide access to existing facilities not otherwise being altered, but requires all new construction and alterations to be accessible.

The Act does not require new construction or alterations; it simply requires that, when a public accommodation or other private entity undertakes the construction or alteration of a facility subject to the Act, the newly constructed or altered facility must be made accessible. This subpart establishes the requirements for new construction and alterations.

As explained under the discussion of the definition of "facility," § 36.104, pending development of specific requirements, the Department will not apply this subpart to places of public accommodation located in mobile units, boats, or other conveyances.

Section 36.401 New Construction

General

Section 36.401 implements the new construction requirements of the ADA. Section 303 (a)(1) of the Act provides that discrimination for purposes of section 302(a) of the Act includes a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment (i.e., after January 26, 1993) that are readily accessible to and usable by individuals with disabilities.

Paragraph 36.401(a)(1) restates the general requirement for accessible new construction. The proposed rule stated that "any public accommodation or other private entity responsible for design and construction" must ensure that facilities conform to this requirement. Various commenters suggested that the proposed language

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was not consistent with the statute because it substituted "private entity responsible for design and construction" for the statutory language; because it did not address liability on the part of architects, contractors, developers, tenants, owners, and other entities; and because it limited the liability of entities responsible for commercial facilities. In response, the Department has revised this paragraph to repeat the language of section 303(a) of the ADA. The Department will interpret this section in a manner consistent with the intent of the statute and with the nature of the responsibilities of the various entities for design, for construction, or for both.

Designed and Constructed for First Occupancy

According to paragraph (a)(2), a facility is subject to the new construction requirements only if a completed application for a building permit or permit extension is filed after January 26, 1992, and the facility is occupied after January 26, 1993.

The proposed rule set forth for comment two alternative ways by which to determine what facilities are subject to the Act and what standards apply. Paragraph (a)(2) of the final rule is a slight variation on Option One in the proposed rule. The reasons for the Department's choice of Option One are discussed later in this section.

Paragraph (a)(2) acknowledges that Congress did not contemplate having actual occupancy be the sole trigger for the accessibility requirements, because the statute prohibits a failure to "design and construct for first occupancy," rather than requiring accessibility in facilities actually occupied after a particular date.

The commenters overwhelmingly agreed with the Department's proposal to use a date certain; many cited the reasons given in the preamble to the proposed rule. First, it is helpful for designers and builders to have a fixed date for accessible design, so that they can determine accessibility requirements early in the planning and design stage. It is difficult to determine accessibility requirements in anticipation of the actual date of first occupancy because of unpredictable and uncontrollable events (e.g., strikes affecting suppliers or labor, or natural disasters) that may delay occupancy. To redesign or reconstruct portions of a facility if it begins to appear that occupancy will be later than anticipated would be quite costly. A fixed date also assists those responsible for enforcing, or monitoring compliance with, the statute, and those protected by it.

The Department considered using as a trigger date for application of the accessibility standards the date on which a permit is granted. The Department chose instead the date on which a complete permit application is certified as received by the appropriate government entity. Almost all commenters agreed with this choice of a trigger date. This decision is based partly on information that several months or even years can pass between application for a permit and receipt of a permit. Design is virtually complete at the time an application is complete (i.e., certified to contain all the information required by the State, county, or local government). After an application is filed, delays may occur before the permit is granted due to numerous factors (not necessarily relating to accessibility): for example, hazardous waste discovered on the property, flood plain requirements, zoning disputes, or opposition to the project from various groups. These factors should not require redesign for accessibility if the application was completed before January 26, 1992. However, if the facility must be redesigned for other reasons, such as a change in density or environmental preservation, and the final permit is based on a new application, the rule would require accessibility if that application was certified complete after January 26, 1992.

The certification of receipt of a complete application for a building permit is an appropriate point in the process because certifications are issued in writing by governmental authorities. In addition, this approach presents a clear and objective standard.

However, a few commenters pointed out that in some jurisdictions it is not possible to receive a "certification" that an application is complete, and suggested that in those cases the fixed date should be the date on which an application for a permit is received by the government agency. The Department has included such a provision in § 36.401(a)(2)(i).

The date of January 26, 1992, is relevant only with respect to the last application for a permit or permit extension for a facility. Thus, if an entity has applied for only a "foundation" permit, the date of that permit application has no effect, because the entity must also apply for and receive a permit at a later date for the actual superstructure. In this case, it is the date of the later application that would control, unless construction is not completed within the time allowed by the permit, in which case a third permit would be issued and the date of the

application for that permit would be determinative for purposes of the rule.

Choice of Option One for Defining "Designed and Constructed for First Occupancy"

Under the option the Department has chosen for determining applicability of the new construction standards, a building would be considered to be "for first occupancy" after January 26, 1993, only (1) if the last application for a building permit or permit extension for the facility is certified to be complete (or, in some jurisdictions, received) by a State, county, or local government after January 26, 1992, and (2) if the first certificate of occupancy is issued after January 26, 1993. The Department also asked for comment on an Option Two, which would have imposed new construction requirements if a completed application for a building permit or permit extension was filed after the enactment of the ADA (July 26, 1990), and the facility was occupied after January 26, 1993.

The request for comment on this issue drew a large number of comments expressing a wide range of views. Most business groups and some disability rights groups favored Option One, and some business groups and most disability rights groups favored Option Two. Individuals and government entities were equally divided; several commenters proposed other options.

Those favoring Option One pointed out that it is more reasonable in that it allows time for those subject to the new construction requirements to anticipate those requirements and to receive technical assistance pursuant to the Act. Numerous commenters said that time frames for designing and constructing some types of facilities (for example, health care facilities) can range from two to four years or more. They expressed concerns that Option Two, which would apply to some facilities already under design or construction as of the date the Act was signed, and to some on which construction began shortly after enactment, could result in costly redesign or reconstruction of those facilities. In the same vein, some Option One supporters found Option Two objectionable on due process grounds. In their view, Option Two would mean that in July 1991 (upon issuance of the final DOJ rule) the responsible entities would learn that ADA standards had been in effect since July 26, 1990, and this would amount to retroactive application of standards. Numerous commenters characterized Option Two as having no support in the

ADA Signage Checklist

Federal Regulations

A. Parking Lots and Structures

Have Need

- Accessible Symbol not obscured by vehicle.
- If van accessible, so posted below Accessible Symbol.
- Accessible passenger loading zones must be marked with Accessible Symbol.

Proposed State of California Regulations

(In addition to Federal, or more stringent).

Have Need

- White figure on blue background (Federal Color 15090).
No smaller than 70 sq." ReflectORIZED, permanently posted adjacent to & visible from parking spot. 80" from bottom of sign to finish grade of parking lot or floor. Can also be posted on wall at interior end, minimum 3'6" from grade.
- The surface of each accessible space or stall shall have surface identification:
 - A. Outline space in blue and within outline in white or contrasting color Accessible Symbol.
 - B. Outline Accessible Symbol in white on blue background 36" sq. so that it is visible when a vehicle is parked in the space.
- Post at each entrance or immediately adjacent to and visible from each space a sign 17 x 22" with no less than 1" letters clearly stating:
"Unauthorized vehicles parked in designated handicapped spaces not displaying distinguishing placards or license plates issued for physically disabled persons may be towed away at owner's expense. Towed vehicles may be reclaimed at _____ or by telephoning _____."

ADA Signage Checklist

Federal Regulations

B. Entrances

Have Need

- Accessible Symbol at accessible entrances only when all are not accessible.
- Inaccessible entrances must have directional signage to indicate the route to the nearest accessible entrance without retracing steps to the approach route.

C. Lobby

Have Need

D. Elevators

Have Need

- Hoistway Entrances
 Raised & Braille floor designations on both jambs, with centerline of characters 60" above finish floor. Must be 2" high, be minimum 1/32" deep, sans serif or simple serif. OK to permanently fix plates to jambs.
- Car Controls
 Designate all buttons by Braille & raised standard characters or symbols. (See attached diagram). Characters & symbols must be directly to the left of the button. Main entry floor is designated by a star symbol. Follow all specs for permanent identification signs. (see "H.") Permanently attached plate is OK. Any 2-way system must also have compliant signage.

Proposed State of California Regulations

(in addition to Federal, or more stringent)

Have Need

- Accessible Symbol on all accessible entrances. Symbol must be white on blue background.
- Directional signs leading to accessible entrances must be visible to persons along approaching pedestrian ways.

Have Need

- Buildings that have been remodeled to provide accessible restrooms and/or elevators shall post this information in the lobby, preferably as part of the building directory.

Have Need

- Hoistway Entrances
 Braille must conform to Calif. specs. Braille must be placed directly to the left of the corresponding floor designation. The raised floor designation must be of a color contrasting to the background.
- Car Controls
 Braille must be directly below the raised character or symbol. Characters must be white on a black background.

ADA Signage Checklist

Federal Regulations

E. Exits & Areas of Rescue Assistance Have Need

Inaccessible exists and any other location necessary shall have clear directional signage to an area of rescue assistance.

Each area of rescue assistance shall be identified by a sign which states "Area of Rescue Assistance."
If exit sign is required to be illuminated, then this sign must also be illuminated.

In addition, instructions on the use of the area in an emergency must be posted adjoining the 2-way communications system.

F. Restrooms Have Need

When existing toilet or bathing facilities are not accessible, compliant directional signs shall be provided indicating the the nearest accessible facility. ADA restroom signs follow the regulations for permanent room identification signs. See "H" for specs.

G. Equipment for Hearing Impaired Have Need

Text Telephones, Volume Control Telephones, Assistive Listening Systems: When available must be identified by the appropriate international symbol. Directional signs, also with symbol, must indicate nearest equipment, or must be in lobby.

Proposed State of California Regulations (in addition to Federal, or more stringent) Have Need

Inaccessible emergency exits must have a warning sign which complies with sign rules. Also, post directions to an area of rescue assistance. (State uses "Area of Evacuation Assistance.")

Have Need

In addition to signs required by ADA California requires code restroom signs (circle & triangle) to be mounted on the door. See "H" for exact specs. They are to contrast with the door. No particular wording or Braille is required. That should be on the compliant ADA sign next to the door.

Have Need

When an assistive listening device is provided, the sign so stating must be prominently displayed.

ADA Signage Checklist

The sections that follow refer specifically to the three types of signs which the Federal government seeks to regulate. The signs mentioned in sections B through G, although they fill specific requirements for signing certain areas, must also conform to the applicable regulations listed in these last three checklists. (Parking signs, even though they identify specific spaces, for obvious reasons are not required to use Braille and raised letters.) Note that both identification-type signs and directional-type signs may also fall under the category of signs dealing with accessible facilities or elements.

Federal Regulations

Proposed State of California Regulations

H. Signs Identifying Permanent Rooms or Spaces

(in addition to Federal, or more stringent)

Note: The checkpoints below correspond to Federal regulations 4.30.4, 4.30.5 and 4.30.6.

Have Need

Have Need

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Characters raised at least 1/32" |
| <input type="checkbox"/> | <input type="checkbox"/> | Characters are upper case, san serif or simple serif. |
| <input type="checkbox"/> | <input type="checkbox"/> | Characters are at least 5/8" and no more than 2" high. |
| <input type="checkbox"/> | <input type="checkbox"/> | Characters are accompanied by Grade II Braille. |
| <input type="checkbox"/> | <input type="checkbox"/> | Pictograms are in their own 6" high space. |
| <input type="checkbox"/> | <input type="checkbox"/> | Pictograms which identify the room or space are accompanied by text directly below. |
| <input type="checkbox"/> | <input type="checkbox"/> | Characters, pictograms and background are of non-glare materials. Characters & pictograms contrast with background. (Light on dark is preferred.) |
| <input type="checkbox"/> | <input type="checkbox"/> | Signs are mounted adjacent to the latch side of the door, or on the nearest adjacent wall, with centerline of sign 60" from finish floor, and far enough away from swing of door so that someone may approach within 3 inches of sign. It is vital not to mount raised letter and Braille signs on a door or in the path of a door swing. |

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Braille dots must be 1/10 inch on centers in each cell with 2/10 inch space between cells. Dots must be raised at least 1/40" above background. |
| <input type="checkbox"/> | <input type="checkbox"/> | If the pictogram used is the standard Accessible Symbol (wheelchair) it must be white on a blue background unless an exception is made. |
| <input type="checkbox"/> | <input type="checkbox"/> | In addition to federally required signs for restrooms, in California a women's restroom must have a 12", 1/4 inch thick circle, a men's room must have a 12", 1/4 inch thick equalateral triangle and a unisex restroom must have the triangle mounted on the circle. These must be mounted on the door, centered at 60". The color of the symbol must contrast with the color of the door. |

ADA Signage Checklist

Federal Regulations

Proposed State of California Regulations

(in addition to Federal, or more stringent)

I. Directional and Informational Signs

Note: These checkpoints correspond to Federal regulations 4.30.2, 4.30.3 and 4.30.5.

Have Need

Characters are large enough to be easily seen from the proper viewing distance. An overhead or projecting sign will use minimum 3" characters measured by the height of the upper case X. Letters can be upper and lower case.

Characters must have a width-to-height ratio between 3:5 and 1:1 and a stroke width to height ratio between 1:5 and 1:10

Characters, pictograms and background are of non-glare material and characters and pictograms must contrast with their background.

Have Need

Minimum character or pictorial size is 5/8 inch.

If the Accessible pictogram is used it must be white on a blue background unless an exception is granted.

J. Identification of and Directions to Accessible Facilities and Elements

Note: These checkpoints correspond to Federal regulations 4.30.3, 4.30.4 (where applicable) and 4.30.7.

Have Need

Proper pictogram is used. Wheelchair for all facilities and TDD, Volume Control, or Assistive Listening Symbols for those elements.

On identification signs, pictograms are in their own six inch high space. If they name the space, they have a verbal description below.

On directional signs, pictograms are large enough to be seen from the proper viewing distance.

Inaccessible facilities have directionals which conform to the regulations for directional signs to indicate the nearest accessible facilities.

Have Need

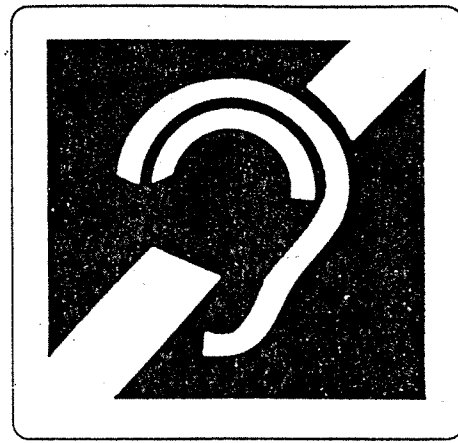
Color of Accessible pictogram is as above.

Pictograms on all signs are at least 5/8 inches high.

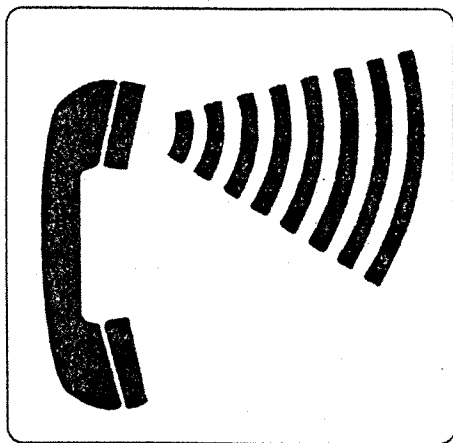
International Symbol of Accessibility



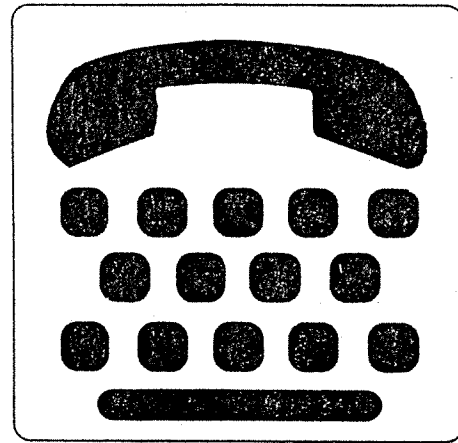
Assistive Listening Systems



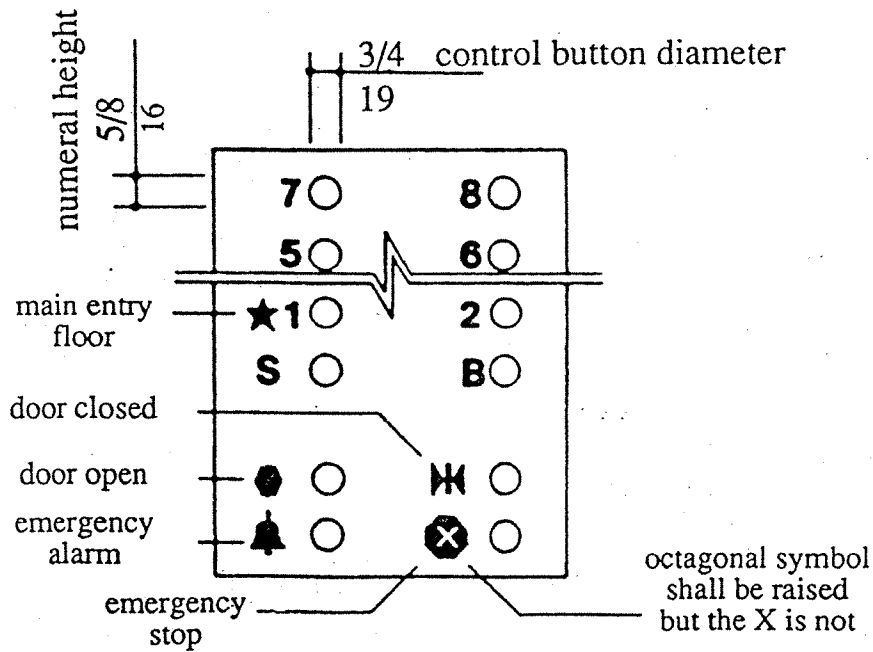
Volume Control Telephones



Text Telephone Symbol (TDD)



Elevator Car Position Indicators



Questions and Answers for Sign Buyers

ADA Signage

What is the ADA?

It is a law (the Americans with Disabilities Act) that attempts to give as much access as possible to businesses, to public buildings, to services and to employment to people with a variety of disabilities.

When does it take effect?

The law was signed on July 26, 1990. By July 26, 1991, regulations were published by the government which laid out specifics of the law. Title III of the law took effect on January 26, 1992. The only businesses, services, and buildings which were not affected on that date are religious organizations (which are exempt), businesses which are not open to the public (such as wholesale suppliers), and state, county and local governmental buildings and services which are affected instead by Title II. Private dwellings also are not affected. Title II requires substantially the same response to the law as Title III. There is also a section of the law (Title I), which deals with equal opportunity employment. That law does not take effect until July 26, 1992 for businesses with more than 25 employees, and July 26, 1994 for businesses with 15-24 employees. Businesses with fewer than 15 employees are not covered by Title II. As a practical matter, some small retail establishments will be required to do very little in order to comply to the best of their ability. However, institutions such as medical facilities, educational facilities and hotels will be expected to do much more to comply.

Does the law pertain only to new and remodeled facilities or are existing facilities affected?

Although there are rules that state that only newly built and remodeled facilities, depending on the date that the first permits are taken out and construction begins, must comply fully with the law, the law also states that all existing facilities, services and businesses covered by the law must begin to take steps by January 26, 1992 to make their facilities accessible. No one is required to remodel existing buildings in such a fashion that it would place undue hardship upon their business. However, the Justice Department and the Architectural and Transportation Barriers Compliance Board have both stated that new signs would not usually constitute an undue hardship, and that whenever an existing sign is replaced or a new sign is added, it would be expected that the sign would comply with the law. In short, some facilities may be expected to replace all existing signs, although they would probably be allowed to do so in stages as their budget allowed, and all facilities would be expected to conform with the law on all additional signs or replacement signs.

Which signs will be affected by the law?

Most exterior signs seem not to be affected by the law. Signs designating handicapped parking spaces, van accessible spaces and handicapped accessible passenger loading zones must comply. Also, entrances to the facility which are accessible for people in wheelchairs must comply. Signs at transportation facilities must comply. Although most new and remodeled buildings already provide such signage, the new rules are very specific and stringent and may require some changes in signage.

All permanent interior signs are affected by the law. The definition of the word "permanent" is what is important here. For instance, building directories are usually considered temporary signs so they probably do not need to comply. Signs in businesses advertising special sales or offers are temporary. Price tags and menus are also temporary. However, businesses are expected to offer help to visually impaired clients by verbally giving information from these printed materials.

Permanent interior signs include room numbers, room names, (such as "Conference Room"), identification of spaces (such as "Stairs" and "Lobby") and directional and explanatory or informational signs, (such as "X-Ray Department (with arrow)," or "No Smoking").

Do all these signs have to include Braille and raised letters?

No. Interior signs are divided into two main categories: (A) Identification Signs and (B) Directional and Informational Signs. There are two rules which apply to both categories:

1. All permanent signs are to be made of material which is non-glare. The finish is called "egg-shell," a finish which is matte or slightly rough to the touch. Therefore, signs made of shiny metals, plastics, highly polished woods or painted or vinyl surfaces which are shiny will not be allowed.
2. All permanent signs must have characters and symbols which contrast highly with the background color of the sign. Very subtle decorative colors and effects and highly distinctive typestyles will probably not comply.

What about the names of companies or services on individual office doors? Are these considered permanent signs?

Usually these would be considered temporary signs, since the tenant does not own the space and might move from one suite or building to another. Only the suite number or letter or the name of a permanently designated space needs to comply with the regulations.

Which signs have to be in Braille and have raised letters?

Signs which identify permanent rooms or spaces must have raised upper case letters accompanied by Grade II Braille. If symbols or pictograms are included on these signs, the space for the pictogram is regulated. Also, pictograms which identify rooms or spaces must be accompanied by the word for that room in raised letters and by Grade II Braille. Pictograms are not required to be raised. Your company logo is not considered a pictogram. In addition, your company name will usually not need to be raised or accompanied by Braille.

The greatest effect, by far, of this regulation will be in facilities such as office buildings, health care facilities, educational institutions and hotels, where there are many rooms or suites. Each of these spaces must be designated with a Braille and raised letter identification sign installed in the proper location.

Our building has suite signs which complement our decor, with specific typestyles, logos, colors and materials. Does the law mean that we have to remove all these signs and replace them with compliant signs?

No. You can supplement your existing signs with suite number signs which comply. In any case, the compliant signs are not allowed to be installed on the door, but must be on a wall adjacent to the door at a specific height. This is so that people with vision impairments who need to read the Braille sign or raised letters or view the sign from 3 inches will not be hit by the door if it opens. So, as long as the existing sign is not installed exactly where the new sign needs to be, there is no need to remove it.

What are the regulations for directional and informational permanent signs?

These signs are not required to have raised letters or Braille. The letters can be in any typestyle which has letters of a specific stroke width. Both caps and lower case letters can be used. The letters must be clearly visible from the distance at which they can be read. The only specific height given is that signs suspended from the ceiling or installed 80 inches above the floor must have minimum three inch high letters, measured by the height of a capital X.

How do you decide what size letter is "clearly visible?"

The letters should be able to be read by someone with impaired vision, as a matter of common sense. If it is easy to approach fairly near the sign, the letters can obviously be smaller than letters on a sign which can only be viewed from six or seven feet away.

Our current directional and informational signs will not comply with the regulations. Will we need to remove them?

That depends upon a number of factors. Existing facilities must only do what is reasonable. If replacing all directional and informational signs would be expensive in relationship to the size and budget of your facility, you would only be expected to order compliant signs as old signs require changing or as new signs are added. Just remember that if you do get new signs for any reason, whether it is because you are redecorating or that your signs have become shabby or that you are adding signs, you should be sure that the new signs comply.

What about signs which currently are made according to state and local codes, such as elevator signs, restroom signs, stairwell signs and emergency evacuation signs?

Each state is now analyzing the new federal regulations and is revising state codes where necessary. In some cases, state and local codes might be more stringent than the federal regulations. In that case, signs will need to comply with the more restrictive code. However, most facilities would probably not be required to replace all current code signs for that reason. You should make sure, however, that all new signs conform to the more stringent code, whether it is the federal or the state code.

Under the law, will there be new kinds of interior signs required for buildings?

As buildings are built or remodeled according to the new standards, some new types of interior signs will become common. For instance, buildings will be required to have a "place of rescue" and that area will need identifying signs and there will be directional signs leading to it. Your accessible parking places, entrances, and so on will need to be identified even if they aren't now. But, if you don't identify your janitor closet now with a sign, then you probably don't need to do so under the new law. Remember that the signs are only the means to an end, to allow the visually impaired an equal opportunity to get around your facility independently. Certainly, no one should succumb to a temptation to remove current, helpful signs just so that they wouldn't have to purchase compliant signage.

How will the law be enforced?

The United States Department of Justice has been given a budget for the specific purpose of enforcing this law. Local building inspectors are expected to make sure that all new buildings and remodeled buildings conform in all respects. Older facilities may or may not have complaints lodged against them. Private citizens might bring suit, or they may complain and the government will bring suit against the facility. It stands to reason that facilities which serve a broad segment of the public, such as health care facilities, educational facilities, libraries, museums, large places of recreation and entertainment and government buildings will probably be the first to be targeted.

We never have disabled people come into our business. Why do we need special signs?

Of course, the main purpose of this law is to open up possibilities for disabled people to participate in commerce, in government, in education, in travel and recreation and in employment to every extent possible. Those businesses who remark that no disabled people patronize them must realize that they would get increased patronage if they were more accessible. Many visually impaired people appreciate the chance to go about their daily business on their own. A visually impaired person can now go to an office building or hotel and, because of raised and Braille elevator signage, get to the proper floor. However, at that point, the person must depend on someone else. With the new law, the visually impaired person will be able to locate the suite or office by reading the Braille or raised identification by each door. The result of this law should eventually be that disabled people will play an important part of our economy.

Won't all sign companies know how to make these signs correctly?

Unfortunately, some sign companies and even large sign manufacturers, have not yet successfully unraveled these complicated regulations. It is all too common to see signage advertised as ADA compatible which is incorrect in one or more ways. We have seen signs of the wrong size, with incorrect typestyles, made of

non-compliant materials with Braille that is wrong. Your best defense is to be careful in your choice of a sign company. Until the law has been around longer, you should ask just how the company determined the proper specifications for its ADA signage. The information we have is the result of not only a very careful and thorough reading of the entire set of ADA regulations, but also of many conversations with the Access Board in Washington D.C. who wrote those regulations. Everything in the regulations that was unclear was discussed. The same criteria need to be followed when looking for an ADA consultant. (Some individuals are advertising themselves as "certified ADA consultants." Beware of such consultants, since no one has been certified in this field.) We all know that laws made in Washington are often tested in the courts, and no one can say with certainty that the regulations will withstand every test. However, the law is very clear that the government must take good faith efforts into account, and we can stand behind our word that we have gone to great effort to understand the signage implications of the ADA and that we do follow our best understanding of the regulations as currently published, in designing and fabricating signs.



issue of the Federal Register, and this proposed rule would adopt those guidelines. Rather than having the ADA Standards for Accessible Design published twice, as an appendix to both parts 35 and 36, this proposed rule would adopt the revised ADA Standards as Appendix A to part 37. Parts 35 and 36 are amended to reference those standards.

The Access Board received public comments on its proposed guidelines, published on December 21, 1992, and is soliciting comments on its interim rule, which is published elsewhere in this issue of the Federal Register. The Department, as a member of the Access Board, will be actively involved in the review and analysis of the comments that the Access Board receives on its interim guidelines and in making any revisions to the guidelines in response to those comments. Therefore, the Department has proposed to adopt the guidelines, as revised by the Access Board in its final rule, as the ADA Standards for Accessible Design. Comments submitted to the Access Board in response either to its Notice of Proposed Rulemaking or its Interim Rule, therefore, will also be considered by the Department as comments on this proposed rule, and need not be separately submitted to the Department. Comments previously received by the Access Board concerning provision of unisex restrooms will be considered by the Department of Justice through future rulemaking or other action.

28 CFR 35.151 would be replaced by §§ 35.151–35.155 of the proposed regulation. At present, § 35.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of a public entity shall be designed, constructed, or altered to be readily accessible to and usable by individuals with disabilities. Current § 35.151(c) establishes two standards for accessible new construction and alteration. Under paragraph (c), design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) is deemed to comply with the requirements of this section with respect to those facilities (except that, if ADAAG is chosen, the elevator exemption does not apply). ADAAG was initially developed by the Access Board as a guideline for accessibility to buildings and facilities that are subject to title III. It was adopted by the Department as the standard for places of public accommodation and commercial facilities under title III of the ADA and

was published as Appendix A to the Department's regulation implementing title III, 28 CFR part 36, and amended on January 18, 1994, 59 FR 2674. This rule removes that appendix and adds the Access Board's revised guidelines as Appendix A to 28 CFR part 37.

The proposed rule would revise 28 CFR 35.151 and add four new sections, 28 CFR 35.152–35.155, which follow the format of parallel provisions in the Department's title III regulation at 28 CFR part 36, subpart D.

Section 35.150 Existing Facilities

The proposed rule would amend § 35.150(a)(2), which provides that, in ensuring access to programs in existing facilities, a public entity is not required to take any action that would threaten or destroy the historic significance of an historic property. The proposed amendment to § 35.150(a)(2) would incorporate the procedures set out in section 4.1.7 of the ADA Standards for determining whether a physical alteration would threaten or destroy the historic significance of an historic property.

The proposed rule would also amend § 35.150(b)(1) to make clear that the path of travel requirements of § 35.153 do not apply to measures taken solely to comply with program accessibility requirements. This amendment is consistent with § 36.304(d)(1) of the title III regulation, which states that "[t]he path of travel requirements of § 36.403 shall not apply to measures taken solely to comply with the barrier removal requirements of this section."

Section 35.151 New Construction

Section 35.151, as revised, would require that newly constructed facilities be readily accessible to and usable by individuals with disabilities. Paragraph 35.151(b)(2) of the proposed rule incorporates the ADA's "structural impracticability" exception for new construction. Under that exception, in new construction, full compliance with the requirements of the ADA Standards is not required where a public entity can demonstrate that it is structurally impracticable to meet the requirements. However, full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

The statute dictates that regulations promulgated under title II of the ADA "shall be consistent with [the other titles of] this Act" as well as with section 504 of the Rehabilitation Act of 1973, Pub. L. No. 101–336, § 204(b). Furthermore, the legislative history of

the ADA indicates that "the forms of discrimination prohibited by [title II are] identical to those set out in the applicable provisions of titles I and III." H.R. Rep. No. 485, 101st Cong., 2d Sess., pt. 2, at 84 (1990). Thus the structural impracticability exception for public accommodations and commercial facilities contained in the Department of Justice title III regulations at 28 CFR 36.401(c) has been incorporated in § 35.151 and is included in the ADA Standards at § 4.1.1(5)(a). Other revisions to this rule and to the ADA Standards that render this rule and the ADA Standards consistent with title III, which are discussed below, are based on this same statutory mandate and legislative history.

Consistent with the legislative history of the ADA, the Department's proposed rule states that the structural impracticability exception will apply only in rare and unusual circumstances where unique characteristics of terrain make accessibility unusually difficult. This exception is the same as the exception in the Department's title III regulation, 28 CFR 36.401(c), and is narrower than the exception in the Department of Housing and Urban Development's Fair Housing Accessibility Guidelines (56 FR 9472 (1991)), which generally would allow exceptions from accessibility requirements, or allow compliance with less stringent requirements, on sites with slopes exceeding 10%.

The limited structural impracticability exception adopted by the proposed rule would allow deviations from accessibility requirements only where unique characteristics of terrain prevent the incorporation of accessibility features or where providing accessibility would destroy the physical integrity of a facility. A situation in which a building must be built on stilts because of its location in marshlands or over water is an example of one of the few situations in which the exception for structural impracticability would apply.

In addition, if full compliance with the accessibility standards would be structurally impracticable, compliance is required to the extent that it is not structurally impracticable. Any portion of the facility that can be made accessible must be made accessible to the extent that it is not structurally impracticable. In addition, if providing accessibility to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility must nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight,

CHAPTER 9

Title III of the ADA: Public Accommodations and Facilities Operated by Private Entities

SCOPE NOTE

While the focus of this publication is on the employment discrimination provisions of Title I of the ADA, Title III of the ADA prohibiting discrimination in public accommodations and facilities operated by private entities will also be of concern to employers and is therefore examined in this chapter. Unlike Title I, which focuses on employees, Title III focuses on customers, clients and visitors. New construction and alterations of virtually all privately-owned, non-residential facilities must meet the requirements of Title III and the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG). While the employment discrimination provisions of Title I do not apply to employers of fewer than fifteen employees, there is no such limitation to Title III's coverage.

In addition, Title III prohibits discrimination on the basis of disability by "public accommodations," which encompasses virtually all private businesses that serve the public. Public accommodations must make reasonable modifications in policies, practices, and procedures where necessary to ensure that individuals with disabilities are provided integrated and equal access to activities, goods and services. Such modifications may include the provision of auxiliary communication aids and services, the immediate removal of architectural barriers in existing facilities, and the removal

of transportation barriers in shuttle services for clients or customers.

This chapter reviews the purpose and application of Title III, setting out the scope and requirements for "Commercial Facilities" (§ 9.02) and "Places of Public Accommodation" (§ 9.03). It examines the enforcement provisions of Title III (§ 9.04), certification of state laws or local building codes (§ 9.05), and contains a useful Checklist for Compliance of Existing Facilities (§ 9.06).

Synopsis

- § 9.01 Purpose and Application of Title III
- § 9.02 Commercial Facilities: New Construction and Alterations
 - [1] "Commercial Facilities"
 - [2] ADA Accessibility Guidelines
 - [3] New Construction
 - [4] Alterations and Path-of-Travel Obligations
 - [a] Requirements for Alterations
 - [b] Path-of-Travel Alterations
 - [c] Elevators and Historic Buildings
 - [5] Employee Areas
- § 9.03 Prohibition Against Discrimination by Public Accommodations
 - [1] "Place of Public Accommodation"
 - [2] Prohibition Against Discrimination
 - [3] Reasonable Modifications in Policies, Practices or Procedures
 - [4] Auxiliary Communication Aids and Services
 - [5] Immediate Barrier Removal
 - [6] Maintenance of Accessible Features
 - [7] Landlord and Tenant Responsibilities
 - [8] Shuttle Services
- § 9.04 Courses and Examinations
- § 9.05 Relationship Between Title I and Title III
- § 9.06 Enforcement of Title III
- § 9.07 Certification of State Laws or Local Building Codes
- § 9.08 CHECKLIST: Compliance of Existing Facilities
- § 9.09 QUESTIONS AND ANSWERS: Title III of the ADA.

§ 9.01 Purpose and Application of Title III

Title III of the ADA applies to both "commercial facilities," which include virtually all privately owned, non-residential facilities, and "public accommodations," which are private businesses

that are open to and serve the public.¹ Under Title III, all new "commercial facilities" must be designed and constructed in accordance with accessibility guidelines, and alterations to existing facilities, when undertaken, must conform to accessibility guidelines. Title III also prohibits discrimination on the basis of disability by "public accommodations" and requires:

- The immediate removal of architectural barriers in existing facilities open to the public;
- The reasonable modification of policies, practices, and procedures to accommodate individuals with disabilities, including the provision of auxiliary communication aids and services; and
- The removal of transportation barriers in shuttle services for clients or customers.

Private entities that offer examinations and courses are also required to offer them in a non-discriminatory manner.²

A private establishment not in fact open to the public is exempt from Title III coverage,³ except to the extent that its facilities are made available to the customers or patrons of an organization serving the public.⁴ State and local governmental services and facilities are covered by Title II and, therefore, are excluded from Title III coverage.⁵

Religious organizations, or entities controlled by religious organizations, also are exempt from Title III coverage.⁶ Even where a religious organization serves the public, the religious organization is exempt from the ADA requirements. Thus, if a church itself operates a day care center, a nursing home, or a

¹ Americans With Disabilities Act of 1990, Pub. L. No. 101-336, §§ 301 through 309, 104 Stat. 327, 353 (*codified at* 42 U.S.C. §§ 12181 through 12189); the Act will hereinafter be cited to the codified U.S.C. Section and to the uncodified Public Law Section of the ADA.

² 42 U.S.C. § 12189, ADA § 309; 28 C.F.R. § 36.102, 56 Fed. Reg. 35,544, 35,593 (1991).

³ 42 U.S.C. § 12187, ADA § 307.

⁴ 28 C.F.R. § 36.102, 56 Fed. Reg. 35,544, 35,593 (1991).

⁵ *Id.*

⁶ 42 U.S.C. § 12187, ADA § 307; 28 C.F.R. § 36.102(e), 56 Fed. Reg. 35,544, 35,593 (1991).

private school, those operations are not subject to the ADA. The test is whether the religious organization operates the public accommodation, not whether members of the public receive the services. Where a religious organization leases space to a non-religious organization, however, the ADA applies to the non-religious group's activities as long as there is a lease and consideration is paid. For instance, if a church leases space to a local community group or a private, independent day-care center, the activities of the community group or day-care center must meet the ADA's requirements.⁷

§ 9.02 Commercial Facilities: New Construction and Alterations

[1]—"Commercial Facilities"

The term "commercial facilities," as defined in Title III, includes virtually all private, nonresidential facilities.¹ The term includes businesses that serve the public, such as stores, banks, theaters, and lawyers' and doctors' offices.² The term also encompasses all private business facilities, including:

- Factories;
- Warehouses;
- Office buildings;
- Privately owned airports; and
- Other buildings in which employment may occur.³

Title III, however, specifically excludes aircraft and railroad cars, which are covered under other laws.⁴

The term "facility" is an all-encompassing concept. It means all or any portion of the following:⁵

⁷ *Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Section-by-Section Analysis and Response to Comments* ("Analysis"), 56 Fed. Reg. 35,544, 35,554 (1991).

¹ 42 U.S.C. § 12181(2), ADA § 301(2); 28 C.F.R. § 36.104, 56 Fed. Reg. 35,554, 35,593 (1991).

² These "public accommodations" are discussed in more detail in § 9.03, *infra*.

³ Analysis, 56 Fed. Reg. 35,544, 35,547 (1991).

⁴ 42 U.S.C. § 12181(2), ADA § 301(2).

⁵ Analysis, 56 Fed. Reg. 35,544, 35,550 (1991).

- Buildings;
- Structures;
- Complexes;
- Equipment;
- Roads;
- Walks;
- Passageways;
- Parking lots;
- Mobile facilities, such as cruise ships, floating restaurants, or mobile health units; or
- Other real or personal property, including the site where the building, property, structure, or equipment is located.

“Facility” also includes places that serve the public in mobile facilities, such as cruise ships, floating restaurants, or mobile health units.⁶

[2]—ADA Accessibility Guidelines

New construction and alterations of “commercial facilities” must meet the requirements of the ADA and its Accessibility Guidelines. The ADA does not require new construction or alterations; it simply requires that, when a business undertakes the construction or alteration of a facility, the new construction or altered portions of the facility must be made accessible.⁷

The Department of Justice has issued regulations incorporating standards known as the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG), issued by the Architectural and Transportation Barriers Compliance Board (ATBCB).⁸ New construction and alterations must meet

⁶ Analysis, 56 Fed. Reg. 35,544, 35,551 (1991). These facilities are not yet addressed by the American With Disabilities Act Accessibility Guidelines for Buildings and Facilities. See the discussion in § 9.02[2], *infra*.

⁷ H.R. Rep. No. 485, Part 3, 101st Cong., 2d Sess. at 63 (1990) (House Judiciary Report). See also Analysis, 56 Fed. Reg. 35,544, 35,580 (1991).

⁸ The Board is an independent federal agency established pursuant to Section 502 of the Rehabilitation Act of 1973 to ensure that the requirements of the Architectural Barriers Act of 1968 are met and to propose alternative

ADAAG requirements. ADAAG is based on the Board's 1982 Minimum Guidelines and Requirements for Accessible Design (MGRAD) and follows the numbering system and format of the private sector American National Standard Institute's ANSI A117.1 standards. ADAAG supplements MGRAD and tries to be consistent both with it and with ANSI.⁹

ADAAG contains general design standards for all types of building elements, such as the following:

- Parking;
- Accessible suites;
- Ramps;
- Stairs;
- Elevators;
- Doors;
- Entrances;
- Drinking fountains;
- Bathrooms;
- Light and heat controls and operating mechanisms;
- Storage areas;
- Alarms;
- Signage;
- Telephones;
- Fixed seating and tables;
- Assembly areas;
- Automated teller machines; and
- Dressing rooms.

ADAAG has special technical standards for restaurants and cafeterias, medical care facilities, business and mercantile facilities, libraries, and transient lodgings such as hotels and shelters. ADAAG also contains so-called "scoping" requirements for various building elements. These scoping requirements specify

solutions to architectural, transportation, communication and attitudinal barriers faced by individuals with disabilities. 56 Fed. Reg. 35,408 (1991).

⁹ Analysis, 56 Fed. Reg. 35,544, 35,584-85 (1991).

how many accessibility features must be incorporated in building elements and in what circumstances.¹⁰

CAUTION

The ADA does *not* authorize any federal, state or local agency to review or approve drawings and specifications for compliance with Title III. As a result, an entity has no way of knowing for certain whether it has properly discharged its Title III obligations. Only after a complaint is filed and a determination is made by a court will a commercial facility know whether the Title III accessibility requirements have been completely satisfied.

[3]—New Construction

Title III requires that all commercial facilities designed and constructed for first occupancy after January 26, 1993 must be “readily accessible to and usable by” individuals with disabilities.¹¹ A facility is subject to these new construction requirements if the following two conditions are met:

- The last application for a building permit or permit extension is certified to be complete after January 26, 1992; and
- The first certificate of occupancy for the facility is issued after January 30, 1993.

The term “readily accessible to and usable by” is a term of art, and refers to the enabling of persons with disabilities to get to, enter, and use a facility. The term does not necessarily require that every part of a facility be accessible. Nevertheless, the term does contemplate “a high degree of convenient accessibility.”¹² According to the legislative history, this standard means that the following areas should be made accessible if a facility is to be “readily accessible to and usable by” individuals with disabilities:

¹⁰ Scoping requirements are not included in the MGRAD and ANSI standards.

¹¹ 42 U.S.C. § 12183(a)(1), ADA § 303(a)(1); 28 C.F.R. § 36.401, 56 Fed. Reg. 35,554, 35,599 (1991).

¹² S. Rep. No. 116, 101st Cong., 1st Sess. at 69 (1989) (Senate Committee on Labor and Human Resources).

- Parking areas;
- Routes to and from the facility;
- Entrances;
- Bathrooms;
- Water fountains;
- Public and common use areas; and
- Goods, services and programs offered at the facility.¹³

For example, a hotel that is “readily accessible and usable by” individuals with disabilities would have the following accessibility features:

- All doors and doorways in all rooms and bathrooms would be sufficiently wide to allow passage by individuals in wheelchairs.
- A percentage of each class of hotel rooms would be fully accessible, with grab bars in the bath and at the toilet and with accessible counters in the bathrooms.
- The public use and common use portions of the hotel would be fully accessible.
- The meeting areas would have audio loops.
- The emergency alarms would include flashing lights.
- The elevators would have braille or raised-letter words and numbers.
- There would be handrails on stairs and ramps.¹⁴

To be “readily accessible and usable by” individuals with disabilities, new facilities must be built in strict compliance with the ADA and the ADAAG requirements. There is an exception for structural impracticability, but this exception applies only in rare circumstances where the unique characteristics of terrain prevent the incorporation of accessibility features.¹⁵ For instance, a building on marshland may require the use of stilts, which

¹³ *Id.*

¹⁴ S. Rep. No. 116, 101st Cong., 1st Sess. at 70 (1989) (Senate Committee on Labor and Human Resources).

¹⁵ 42 U.S.C. § 12183(a)(1), ADA § 303(a)(1); 28 C.F.R. § 36.401 (c), 56 Fed. Reg. 35,554, 35,599-600 (1991).

would make the structure inherently inaccessible to a person in a wheelchair.¹⁶

The ADAAG requirements for accessibility in new construction are quite extensive. Examples of the ADAAG scoping requirements in newly constructed facilities include:

- Every public and common use bathroom must be accessible. Where there are five or fewer stalls, at least one stall must be accessible. Two stalls must be accessible where there are six or more stalls.
- For each building floor, there must be at least one accessible public telephone. If a floor has two or more banks of telephones, one telephone at each bank must be accessible.
- For any building with four or more public pay telephones (including both interior and exterior telephones), one TDD (telecommunication device for the deaf) must be provided. Also, one TDD must be available whenever there is an interior public pay telephone in any of the following public facilities:
 - Stadium or arena;
 - Convention center;
 - Hotel with convention center;
 - Covered shopping mall; and
 - Hospital emergency, recovery or waiting room.
- At least 50 percent of all public entrances must be accessible. Entrances to the following must also be accessible:
 - Enclosed parking areas;
 - Pedestrian tunnels; and
 - Elevated walkways.
- There must be an accessible route from public transportation stops, parking spaces, passenger loading

¹⁶ S. Rep. No. 116, 101st Cong., 1st Sess. at 69-70 (1989) (Senate Committee on Labor and Human Resources); Analysis, 56 Fed. Reg. 35,544, 35,580 (1991).

zones and public streets and sidewalks to accessible building entrances.

- Concert halls, theaters, and conference rooms must have special earphones or other listening devices to assist persons with hearing impairments.
- If a bank or other building has an automated teller machine (ATM), at least one ATM must be usable by people in wheelchairs and with poor vision.¹⁷
- In grocery stores, all checkout aisles must be accessible to people in wheelchairs (in most cases, they would have to be more than three feet wide).
- In hotels, four percent of the first 100 rooms (and approximately two percent of rooms in excess of 100) must be suitable for use by people in wheelchairs and by persons with hearing impairments. An identical percentage of additional rooms must be equipped with flashing lights or other "visual alarms" for people with hearing impairments.
- In restaurants, at least five percent of all fixed tables must be fully accessible to people in wheelchairs. Also, two-thirds of the total restaurant eating area must be accessible to people with disabilities.

No elevator is required in a facility that is less than three stories high or has less than 3,000 square feet per story, *except* with respect to a facility that houses one or more of the following:

- A shopping center or shopping mall;
- The professional office of a health care provider;
- A terminal, depot, or other station used for specific public transportation; or
- An airport passenger terminal.

But where an elevator is not required, the facility must still comply with all other accessibility requirements.¹⁸

¹⁷ The ADAAG regulations do not specify how this goal should be achieved. The Architectural and Transportation Barriers Compliance Board suggests that instructions could be available in braille or from a telephone near the teller machine. See 56 Fed. Reg. 35,408, 35,441 (1991).

¹⁸ 42 U.S.C. § 12183(b), ADA § 303(b); 28 C.F.R. § 36.401(d), 56 Fed. Reg. 35,554, 35,578-80 (1991).

PRACTICE POINTER

In meeting the accessibility requirements for new construction, proper advanced planning is critical. The Senate Committee on Labor and Human Resources has estimated that the cost of achieving accessibility for new construction and renovation is "between zero and one percent of the construction budget."¹⁹ The costs will soar, however, if changes have to be made after the new construction is completed.²⁰

[4]—Alterations and Path-of-Travel Obligations

[a]—Requirements for Alterations. After January 26, 1992, an alteration to virtually any private, non-residential facility must be made in a manner that ensures that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.²¹ The standards of accessibility are set forth in the ADAAG.

An "alteration" is any change that affects or could affect the usability of the building or facility or any part of it. Alterations include:

- Remodeling;
- Renovation;
- Rehabilitation;
- Reconstruction;
- Historic Restoration;
- Changes or rearrangement in structural parts or elements; or
- Changes or rearrangement in the plan configuration of walls and full-height partitions.

¹⁹ S. Rep. No. 116, 101st Cong., 1st Sess. at 89 (1989) (Senate Committee on Labor and Human Resources).

²⁰ See Wall Street Journal, May 23, 1990, at B2.

²¹ 42 U.S.C. § 12183(a)(2), ADA § 303(a)(2); 28 C.F.R. § 36.402, 56 Fed. Reg. 35,554, 35,600 (1991). An alteration is considered undertaken after January 26, 1992 if the physical alteration of the property begins after that date. 28 C.F.R. § 36.402(a), 56 Fed. Reg. 35,554, 35,600 (1991).

For instance, if a doorway is relocated during remodeling, this change is an alteration and the new doorway must meet the regulations of ADAAG. Cost is not a factor in determining whether a change is an alteration. Changing a door knob is an alteration. But not every change is an alteration. Normal maintenance, such as reroofing, painting or wallpapering, or asbestos removal, or changes to mechanical or electrical systems are not alterations, unless they affect the usability of the building or facility.²²

In certain circumstances, the nature or configuration of an existing facility may make it virtually impossible for a planned alteration to comply fully with the ADAAG. In such a situation, the alteration is to be made accessible "to the maximum extent feasible." This standard is similar to the standard for new construction and applies only to those situations where it is essentially impossible to make the alteration to the building fully accessible.²³ In short, any altered features of the facility that can be made accessible must be made accessible. Moreover, if because of structural factors an alteration cannot be made fully accessible to and usable by persons with mobility impairments, the alteration must still be completed in a manner that makes it accessible to and usable by those with other disabilities.

[b]—Path-of-Travel Alterations. An alteration that includes a change in a "primary function" must be made in a way that ensures that the path-of-travel to the altered area is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. In addition, the restrooms, telephones, and drinking fountains serving the altered area must be made accessible. The only exception is where the cost and scope of a path-of-travel alteration is disproportionate to the cost of the overall alteration.

A "primary function" is the major activity for which the facility is intended. Examples of primary functions include:

²² 42 U.S.C § 12183(a)(2), ADA § 303(a)(2); 28 C.F.R. § 36.402(c), 56 Fed. Reg. 35,554, 35,600 (1991).

²³ H.R. Rep. No. 485, Part 3, 101st Cong., 2d Sess. at 63 (House Judiciary Committee) ("The provision governing alterations is akin to new construction because it is only applicable to situations where the commercial facility itself has chosen to alter the premises.").

- The customer services lobby of a bank;
- A cafeteria dining area;
- A conference center's meeting rooms; and
- Offices and work areas.

"Primary function" areas may include areas not open to the general public and those used exclusively by employees.²⁴ However, mechanical and storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, and restrooms are not areas that have a primary function.²⁵

Examples of alterations that would trigger path-of-travel requirements include:

- The remodeling of merchandise display areas or employee work areas in a department store;
- The replacement of an inaccessible floor surface in the customer service or employee work areas of a bank;
- The redesigning of an assembly line area of a factory; or
- The installation of a computer center in an accounting firm.

Alterations to windows, hardware, controls (*e.g.*, light switches or thermostats), electrical outlets, or signage alone will not trigger path-of-travel obligations.²⁶

The "path-of-travel" that must be made accessible is defined as a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility. For purposes of alterations requirements, "path-of-travel" also includes the restrooms, telephones, and drinking fountains serving the altered area.²⁷

²⁴ Analysis, 56 Fed. Reg. 35,544, 35,582 (1991).

²⁵ 28 C.F.R. § 36.403(b), 56 Fed. Reg. 35,544, 35,600 (1991).

²⁶ 28 C.F.R. § 36.403(c), 56 Fed. Reg. 35,544, 35,600-01 (1991).

²⁷ 28 C.F.R. § 36.403(e), 56 Fed. Reg. 35,544, 35,601 (1991).

The path-of-travel must be made accessible to the extent that disproportionate costs are not incurred.²⁸ Alterations made to provide an accessible path-of-travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area. For example, if \$10,000 will be spent remodeling a meeting room, up to \$2,000 may need to be spent on path-of-travel accessibility. Costs that may be counted as expenditures required to provide an accessible path-of-travel may include:²⁹

- Costs of creating an accessible entrance and route to the altered area (for example, widening doorways or installing ramps);
- Costs of creating accessible restrooms (for example, installing grab bars, enlarging toilet stalls, insulating pipes, and installing accessible faucet controls);
- Costs of installing accessible telephones (for example, relocating the telephones to an accessible height and installing amplification devices and TDD's); and
- Costs of relocating inaccessible drinking fountains.

In making path-of-travel alterations, priority should be given to elements that will provide the greatest access, in the following order:³⁰

- An accessible entrance;
- An accessible route to the altered area;
- At least one accessible restroom for each sex or a single unisex restroom;
- Accessible telephones;
- Accessible drinking fountains; and
- Where possible, additional accessible elements, such as parking, storage, and alarms.³¹

²⁸ 28 C.F.R. § 36.403(g), 56 Fed. Reg. 35,544, 35,601 (1991).

²⁹ 28 C.F.R. § 36.403(f), 56 Fed. Reg. 35,544, 35,601 (1991).

³⁰ 28 C.F.R. § 36.403(g), 56 Fed. Reg. 35,544, 35,601 (1991).

³¹ H.R. Rep. No. 485, Part 3, 101st Cong., 2d Sess. at 65 (House Judiciary Committee).

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